



# राजपत्र, हिमाचल प्रदेश

हिमाचल प्रदेश राज्यशासक द्वारा प्रकाशित

खण्ड 21]

शिमला, शनिवार, 10 मार्च, 1973/19 फाल्गुन, 1894

[ संख्या 10

## विषय-सूची

भाग 1	वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि ..	540
भाग 2	वैधानिक नियमों को छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि ..	540—541
भाग 3	अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाई कोर्ट, फाइनेन्शल कमिशनर तथा कमिशनर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि	—
भाग 4	स्थानीय स्वायत्त शासन: म्युनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग ..	—
भाग 5	वैयक्तिक अधिसूचनाएं और विज्ञापन ..	543—544
भाग 6	भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन ..	545—595
भाग 7	भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं ..	—
—	अनुपूरक ..	—

10 मार्च, 1973/19 फाल्गुन, 1894 को समाप्त होने वाले सप्ताह में निम्नलिखित विज्ञप्तियां 'असाधारण राजपत्र, हिमाचल प्रदेश' में प्रकाशित हुईं:—

विज्ञप्ति की संख्या	विभाग का नाम	विषय
No. 15-21/63-II-LSG., dated the 1st March 1973.	Local Self Government Department	Modifying Notification No. 15-21/63-II-LSG., dated the 9th September, 1971.
No. 3-62/71-Elec., dated the 8th March, 1973.	Election Department	Republishing Election Commission of India's Notification No. 56/72 XI, dated the 26th February, 1973.

## भाग 1—वैधानिक नियमों को छोड़ कर हिमाचल प्रदेश के राज्यपाल और हिमाचल प्रदेश हाई कोर्ट द्वारा अधिसूचनाएं इत्यादि

### हिमाचल प्रदेश सरकार FOOD AND SUPPLIES DEPARTMENT NOTIFICATION

*Simla-2, the 5th March, 1973*

No. 7-11/69-Coop (F & S)(i).—In exercise of the powers conferred by section 3 of the Essential Commodities Act, 1955 (10 of 1955), read with the order of Government of India in the Ministry of Commerce No. SO 1844, dated the 18th June, 1966 the Governor, Himachal Pradesh is pleased to order that the following proviso shall be inserted under clause 3 of the Himachal Pradesh Sugar Dealers Licensing Order, 1967 published vide Himachal Pradesh Government Civil Supplies Department Notification No. 17-20/67-CS, dated the 28th March, 1968:—

“Provided that the State Government or any Officer authorised by the State Government in this behalf may by general or special order and subject to such conditions, as may be specified in the order, exempt any person or class of persons from the operation of this clause.”

K. C. PANDEYA,  
Secretary.

### INDUSTRIES DEPARTMENT NOTIFICATIONS

*Simla-2, the 30th January, 1973*

No. 2-91/69-SI.—In exercise of the powers conferred by sub-section 1 of section 13 of the Employees' Provident Fund and Family Pension Fund Act, 1952, the Governor, Himachal Pradesh is hereby pleased to appoint Shri U. C. Tewari, Provident Fund Inspector (Grade II) to be an Inspector for the whole of the State of Himachal Pradesh for the purpose of the said Act and the Scheme framed thereunder in relation to Establishments other than those belonging to or under the control of the Central Government or in relation to an establishment connected with a railway company, a major port, a mine or an oil field or a controlled industry, or in relation to an

establishment having departments or branches in more than one State.

*Simla-2, the 21st February, 1973*

No. 13-3/72-SI(W&M)(i).—In exercise of the powers conferred by section 44 of Himachal Pradesh, Weights and Measures (Enforcement) Act, 1968, the Governor, Himachal Pradesh is pleased to direct that the powers exercisable by him under section 16(2) of the aforesaid Act, shall be exercisable also by the Director of Industries, Himachal Pradesh.

2. The notification No. I&S. 15 (Metric)/1340/57, dated the 24th February, 1966 shall be deemed superseded from the date of issue of this notification.

*Simla-2, the 21st February, 1973*

No. 13-3/72-SI(W&M) (i).—In exercise of the powers conferred by section 13, of the Himachal Pradesh Weights and Measures (Enforcement) Act, 1968, the Governor, Himachal Pradesh is pleased to authorise the Controller, Weights and Measures, Himachal Pradesh, to issue licences under section 13 of the said Act.

The notification No. I&S. 15 (Metric) 1340/57, dated 2nd July, 1960, shall be deemed superseded from the date of issue of the notification.

By order,  
P. K. MATTOO,  
Secretary.

### MULTIPURPOSE PROJECTS AND POWER DEPARTMENT CORRIGENDUM

*Simla-2, the 20th February, 1973*

No. 2-3/72-MPP(Sectt.)—The Khasra No. 101/1 measuring 4 Bighas appearing in this Department notification of even number, dated the 7th April, 1972 may be read as Khasra No. 101/1 measuring 1 Bigha and 9 Biswas.

By order,  
L. HMINGLIANA TOCHHAWNG,  
Secretary.

## भाग 2—वैधानिक नियमों का छोड़ कर विभिन्न विभागों के अध्यक्षों और जिला मैजिस्ट्रेटों द्वारा अधिसूचनाएं इत्यादि

### PUBLIC WORKS DEPARTMENT NOTIFICATION

*Dharamsala, the 12th February, 1973*

No. SEV/R-DH-16/69-I.—Whereas it appears to the Governor, Himachal Pradesh that the land is required to be taken by the Government at public expense for a public purpose, namely for construction of Shahpur-Rehlu-Chambi road mile No. 2 in Kangra district, it is hereby declared that the land described in the specification below is required for the above purpose.

The declaration is made under the provisions of section 6 of the Land Acquisition Act 1894, to all whom it may concern and under the provisions of section 7 of the said Act, the Collector, Land Acquisition, Himachal

Pradesh Public Works Department, is hereby directed to take order for the acquisition of the said land.

A plan of the land may be inspected in the office of the Collector, Land Acquisition, Himachal Pradesh Public Works Department, Kangra.

### SPECIFICATION

District: KANGRA Tehsil: KANGRA

Village/Tika	Khasra No.	K.	M.
1	2	3	4
REHLU/REHLU KHAS	256/1	1	15
	255/1	1	11
	259/1	0	0



Sd/-  
Superintending Engineer,  
5th Circle, H.P. P.W.D.  
Dharamsala.

भाग 3—अधिनियम, विधेयक और विधेयकों पर प्रवर समिति के प्रतिवेदन, वैधानिक नियम तथा हिमाचल प्रदेश के राज्यपाल, हिमाचल प्रदेश हाईकोर्ट, फाइनैन्शियल कमिश्नर तथा कमिश्नर आफ इन्कम-टैक्स द्वारा अधिसूचित आदेश इत्यादि

शून्य

भाग 4—स्थानीय स्वायत्त शासन: म्यूनिसिपल बोर्ड, डिस्ट्रिक्ट बोर्ड, नोटिफाइड और टाउन एरिया तथा पंचायत विभाग

शून्य

### भाग 5—वैयक्तिक अधिसूचनाएं और विज्ञापन

#### INDUSTRIES DEPARTMENT GEOLOGICAL CELL

##### AUCTION NOTICE

Simla-6, the 1st March, 1973

No. 5-5/73-Ind. (Glg.)—It is hereby notified for the information of the general public that the contracts of the undermentioned minor minerals quarries of Hamirpur district shall be put to public Auction in the office of the District Industries Officer, Hamirpur on 9th April, 1973 at 11.00 A. M. in accordance with the terms and conditions as laid down below :—

Sr. No.	Name of quarry	Village/Area	Name of Block	Remarks
i	ii	iii	iv	v
1.	Beas river	Entire-Beas-river falling in block jurisdiction of Sujanpur-tira.	Sujanpur-tira	
2.	Pung Khad	Dosarka & Bhalet	-do-	
3.	Bajuri	Hamirpur to Nalti road side, within Bajuri Panchayat.	Hamirpur	
4.	Jungal-Ropa	Jungal Ropa	-do-	Building stones
5.	Amrohi (Majoe-Samluhi)	Amrohi (Majoe-Samluhi)	-do-	-do-
6.	Bhira	Bhira	-do-	-do-
7.	Rangas	Jandal Rajputa	Nadaun	-do-
8.	Kunah Khad I	Balikesar to Rail (left to right bank of Kunah Khad).	-do-	Sand, Stone & Bajri
9.	Kunah Khad II	Rail to Masiana (left to right bank of Kunah Khad, excluding revenue estate of village Rail).	-do-	-do-
10.	Beas River I	Churu to Balikesar (right bank of river beas)	-do-	-do-
11.	Beas River II	Balikesar to Nadaun Chamukha (right bank of river beas) excluding revenue estate of village Balikesar		Sand, Stone & bajri
12.	Maan Khad I	Nadaun to Gauna (left to right bank of Maan Khad).		-do-
13.	Maan Khad II	Gauna to Dhaneta (excluding revenue estate of village Gauna, left to right bank).		-do-
14.	Maan Khad III	Dhaneta to Tiri left to right bank, excluding estate of village Dhaneta).		-do-
15.	Sitla Mandir	Sitla Mandir		-do- Building Stones
16.	Kitpal (Tilla)	Kitpal (Tilla)		-do-
17.	Shukar Khad at Ghansu	Two kms. upstream & three kms down stream of Ghanu bridge in village Ghansu.		Bihhari Sand, Stone & Bajri.
18.	Bumbloo Khad	1 km. upstream & 2 kms down stream of Bumbloo bridge in village Bumbloo.		-do-
19.	Neuhali	Neuhali		-do-
20.	Sirhali Khad at Maslana	1 km upstream & 2 kms down stream of Maslana bridge in village Maslana.		-do-
21.	Dhabiri	Dhabiri (Khad part only, right to left bank of Shukar khad in village Dhabiri).		-do-
22.	Samtana	Samtana (Khad part only, left to right bank of Shukar khad in village Samtana).		-do-
23.	Barsar	Barsar, Janain		-do- Buildign stonens
24.	Jahu	4 kms. upstream & km. down stream		Bhoranj Sand, Stone and

ii	iii	iv	v
	Sir khad left to right bank of Sir Khad in village Jahu		Bajri
Snahal Khad at Munda-khar.	3 kms. upstream & 2 kms. down stream of bridge at Mundakhar right to left bank of Snahal Khad.	-do-	-do-
Chainth Khad at Badehar.	2 km upstream & 1 km down stream of Chainth Khad left to right bank of Khad near water supply scheme in village Badehar.	-do-	-do-
Nagrota Gajian.	3 kms upstream & 2 kms down stream of Chainth Khad, right to left bank of Khad near Govt. Pry. School at Village Nagrota Gajian.	-do-	-do-
Dera Parol Khad.	2 kms upstream & 3 kms down stream of Dera Parol Khad, left to right bank of Khad. reference point—Govt. Pry. School at Village Dera Parol.	-do-	-do-
Tal Mahal	Entire revenue estate of Vill. Tal Mahal.	Bhoranj	Sand, Stone and Bajri
Kunah Khad at Didwin.	2 kms upstream bridge in Village Didwin Kunah Khad part, left to right bank.	-do-	-do-
Sir Khad	Part of Sir Khad in Village Bhukar and Chandruhi left to right bank of Sir Khad.	-do-	-do-

# Terms and Conditions

- The terms and conditions of the auction will be nounced on the spot.
- The period of contract for all the minor minerals arries shall be one year from the date of grant of a contract.
- The intending bidder shall have to deposit Rs. 100 with the Presiding Officer in advance as earnest money.
- The malkana rights shall be acquired by the lected bidder at his own accord.
- No bid shall be regarded as accepted unless nfirmied by the Government or any other officer, thorised for this purpose.
- The provisional selected bidders shall deposit % amount of bid for one year and another equal ount as security at the fall of hammer with the Presi-

ding Officer, provided the bid amount exceeds Rs. 1000 P. A.

7. In case the bid amount does not exceed Rs. 1000 P. A, the whole of bid amount alongwith 2% of security amount shall be deposited at the fall of hammer with the Presiding Officer.

8. The auction is for all the minor minerals excluding Slates, Brick earth, ordinary Clay & Salt petre.

9. The provision of the Pnnjab Land preservation (Chos) Act, 1900 shall apply in toto, as for as the conservation of soil is concerned.

10. The auction of the minor minerals quarries is being made subject to the provisions as contained in the Himachal Pradesh, Minor Minerals (Concession) Revised Rules, 1971.

11. Any other information in respect of these quarries may be obtained from the District Industries Officer, Hamirpur.

12. The Government reserves the right to accept or reject the highest bid without assigning any reason thereto.

N. B. (i) Any person having objection to the auction by the Government may file the objections with reason and documents within 15 days from the date of issue of this auction notice, failing which no objection shall be entertained.

(ii) Intending bidders should in their own interest visit the site and satisfy themselves about the quarries before participating in the auction.

SUBHASH SHARMA,  
Geologist,  
Himachal Pradesh.

IN THE COURT OF SHRI SURENDRA PRAKASH,  
M.A. LL.B., SENIOR SUB JUDGE,  
SOLAN

(Exercising the powers of District Judge Under Guardian and Wards Act).

Smt. Sangatri w/o Shri Gurbax son of Ghoru, resident of Thana, Pargana Dharampur, Tehsil Nalagarh, District Solan.

applicant

Versus

- Sh. Tulsi Ram son of Ghoru, r/o Kishanpura, Tehsil Nalagarh.
- Shri Raghun son of Shri Gharu, r/o Thana, Pargana Dharampur, Tehsil Nalagarh.
- Shri Krishan Dev son of Shri Gurabkash, resident of Thana, Pargana Dharampur, Tehsil Dharampur.

Respondents.

To

The General Public

WHEREAS the Petitioner put in an application under Guardian and Wards Act, which has been fixed in this court on 26-3-1973. This Court is satisfied that the respondent above named i.e., General Public cannot be served in ordinary way. Hencethis,

proclamation hereby issued for service of the General Public to appear in this Court on 26-3-73 at 10 a.m. and put in appearance to raise objection if any, failing which the application will be heard and decided *ex-parte*.

GIVEN under my hand and the seal of this court this 1st March, 1973.

Seal.

SURENDRA PRAKASH,  
Senior Sub Judge.

**भाग 6—भारतीय राजपत्र इत्यादि में से पुनः प्रकाशन**  
(देखिए पृष्ठ 545 से 596)

**भाग 7—भारतीय निर्वाचन आयोग (Election Commission of India) की वैधानिक अधिसूचनाएं**  
तथा अन्य निर्वाचन सम्बन्धी अधिसूचनाएं  
शून्य

**अनुपूरक**

शून्य

## PART VI

### LAW DEPARTMENT NOTIFICATION

Simla-2, the 24th March, 1970

No. 13-12/69-LR.—The following Acts passed by the Parliament which have already been published in the Gazette of India, are hereby republished in the Himachal Pradesh Rajpatra for the information of general public:—

1. The Indian Tariff (Amendment) Act, 1969 (53 of 1969).
2. The Monopolies and Restrictive Trade Practices Act, 1969 (54 of 1969).
3. The Assam Reorganisation (Meghalaya) Act, 1969 (55 of 1969).
4. The Motor Vehicles (Amendment) Act, 1969 (56 of 1969).

JOSEPH DINA NATH,  
Under Secretary (Judicial).

Assented to on 27th December, 1969

#### THE INDIAN TARIFF (AMENDMENT)

ACT, 1969  
(ACT No. 53 OF 1969)

AN  
ACT

further to amend the Indian Tariff Act, 1934.

BE it enacted by parliament in the Twentieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Indian Tariff (Amendment) Act, 1969.

(2) It shall come into force at once.

2. *Amendment of First Schedule.*—In the First Schedule to the Indian Tariff Act, 1934 (32 of 1934),—

(a) for Item No. 46, the following Item shall be substituted, namely:—

“46 Silk-worm cocoons suitable for reeling; raw silk (not-thrown)—

(a) Raw silk Protective 30 per cent December  
*ad valorem* 31st, 1974.

(b) Silk-worm cocoons suitable for reeling Protective 50 per cent December  
*ad valorem* 31st, 1974.”;  
*plus Rs. 8.80*  
*per kilogram*

(b) for Item No. 46(1), the following Item shall be substituted, namely:—

“46 (1) Silk waste Protective 50 per cent December  
(including cocoons unsuitable for reeling, silk  
noils and pulled  
or garnetted  
rags).  
*plus Rs. 8.80*  
*per kilogram.*

(c) for Item No. 47, the following Item shall be substituted, namely:—

“47 Silk yarn Protective 50 per cent December  
including silk *ad valorem* 31st, 1974.”;  
sewing thread *plus Rs. 8.80*  
*per kilogram*

(d) Item No. 47(1) shall be omitted;

(e) for Item No. 48, the following Item shall be substituted, namely:—

“48 Fabrics, not Protective 100 per cent December  
otherwise specified, containing *ad valorem* 31st, 1974.”;  
more than 90 *plus Rs. 18.70*  
per cent of silk *per kilogram*  
including such  
fabrics embroidered with yarn  
or thread of  
man made fibres.

Assented to on 27th December, 1969

### THE MONOPOLIES AND RESTRICTIVE TRADE PRACTICES ACT, 1969

(ACT No. 54 OF 1969)

AN  
ACT

to provide that the operation of the economic system does not result in the concentration of economic power to the common detriment, for the control of monopolies, for the prohibition of monopolistic and restrictive trade practices and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

#### CHAPTER I

##### PRELIMINARY

1. *Short title, extent and commencement.*—(1) This Act may be called the Monopolies and Restrictive Trade Practices Act, 1969.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

(a) “agreement” includes any arrangement or understanding, whether or not it is intended that such agreement shall be enforceable (apart from any provision of this Act) by legal proceedings;

(b) “commission” means the Monopolies and Restrictive Trade Practices Commission established under section 5;

(c) “director” means the Director of Investigation appointed under section 8;

(d) “dominant undertaking” means an undertaking which either by itself or along with inter-connected undertakings,—

(i) produces, supplies, distributes or otherwise controls not less than one-third of the total goods of any description that are produced,

- supplied or distributed in India or any substantial part thereof, or
- (ii) provides or otherwise controls not less than one-third of any services that are rendered in India or any substantial part thereof:

Provided that for the purposes of this clause, the goods produced by an undertaking which does not employ—

- (a) more than fifty workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
- (b) more than one hundred workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on,

shall not be taken into account.

*Explanation I.*—Where not less than one-third of the production, supply, distribution or control of any goods or the provision or control of any service is shared by inter-connected undertakings, each such undertaking shall be deemed, for the purposes of this Act, to be a dominant undertaking.

*Explanation II.*—Where any goods of any description are the subject of different forms of production, supply, distribution or control, every reference in this Act to such goods shall be construed as reference to any of those forms of production, supply, distribution or control whether taken separately or together or in such groups as may be prescribed.

*Explanation III.*—Any undertaking which, either by itself or along with inter-connected undertakings, produces, supplies, distributes or controls one-third of any goods or provides or controls one-third of any services according to any of the following criteria, namely, value, cost, price, quantity or capacity, of the goods or services or the number of workers employed for the production, supply, distribution or control of such goods or for the rendering of such services, shall be deemed to be a dominant undertaking.

*Explanation IV.*—In determining the question as to whether an undertaking is or is not a dominant undertaking, regard shall be had to—

- (i) the lowest production made, or services rendered, by the undertaking concerned during the relevant year, and
- (ii) the figures published by the Central Government with regard to the total production made or services rendered in India or any substantial part thereof during the relevant year.

*Explanation V.*—For the purposes of Explanation IV, production includes supply, distribution or control of goods;

*Explanation VI.*—For the purposes of this clause, “relevant year” means any one year out of the three calendar years immediately preceding the preceding calendar year in which the question whether an undertaking is or is not a dominant undertaking is determined.

- (e) “goods” includes goods produced in India, and, in relation to any goods supplied, distributed or controlled in India, also includes goods imported in to India;

- (f) “India” means for the purposes of this Act, the territories to which this Act extends;
- (g) “inter-connected undertakings” means two or more undertakings which are inter-connected with each other in any of the following manner, namely:—
  - (i) if one owns or controls the other,
  - (ii) where the undertakings are owned by firms, if such firms have one or more common partners,
  - (iii) where the undertakings are owned by bodies corporate,—
    - (a) if one manages the other, or
    - (b) if one is a subsidiary of the other, or
    - (c) if they are under the same management within the meaning of section 370 of the Companies Act, 1956 (1 of 1956), or
    - (d) if one exercises control over the other in any other manner,
  - (iv) where one undertaking is owned by a body corporate and the other is owned by a firm, if one or more partners of the firm,—
    - (a) hold, directly or indirectly, not less than fifty per cent of the shares, whether preference or equity, of the body corporate, or
    - (b) exercise control, directly or indirectly, whether as director or otherwise, over the body corporate,
  - (v) if one is owned by a body corporate and the other is owned by a firm having bodies corporate as its partners, if such bodies corporate are under the same management within the meaning of the said section 370,
  - (vi) if the undertakings are owned or controlled by the same person or group of persons,
  - (vii) if one is connected with the other either directly or through any number of undertakings which are inter-connected undertakings within the meaning of one or more of the foregoing sub-clauses.

#### Illustration

Undertaking B is inter-connected with undertaking A and undertaking C is inter-connected with undertaking B. Undertaking C is inter-connected with undertaking A; if undertaking D is inter-connected with undertaking C, undertaking D will be inter-connected with undertaking B and consequently with undertaking A; and so on.

*Explanation.*—For the purpose of clause (g) two or more undertakings shall be deemed to be inter-connected,—

- (a) if one or more undertakings which are inter-connected undertakings [as defined in clause (g)] jointly or severally, own, manage or control the other,
- (b) if one or more individuals together with their relatives, or firms in which such individuals or their relatives are partners, jointly or severally, own, manage or control the other,
- (c) if inter-connected undertakings referred to in sub-clause (a) and persons, relatives or firms referred to in sub-clause (b), jointly or severally, own, manage or control the other;
- (h) “member” means a member of the Commission;
- (i) “monopolistic trade practice” means a trade practice which has, or is likely to have, the effect of,—

- (i) maintaining prices at an unreasonable level by limiting reducing or otherwise controlling the production, supply or distribution of goods of any description or the supply of any services or in any other manner,
  - (ii) unreasonably preventing or lessening competition in the production, supply or distribution of any goods or in the supply of any services,
  - (iii) limiting technical development or capital investment to the common detriment or allowing the quality of any goods produced, supplied or distributed, or any service rendered, in India to deteriorate;
- (j) "monopolistic undertaking" means—
- (i) a dominant undertaking which, or
  - (ii) an undertaking which, together with not more than two other independent undertakings,—
    - (a) produces, supplies, distributes or otherwise controls not less than one-half of the total goods of any description that are produced, supplied or distributed in India or any substantial part thereof, or
    - (b) provides or otherwise controls not less than one-half of the services that are rendered in India or any substantial part thereof:

Provided that for the purposes of this clause; the goods produced by an undertaking which does not employ—

- (A) more than fifty workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on, or
  - (B) more than one hundred workers on any day of the relevant year, and in any part of which a manufacturing process is being carried on without the aid of power or is ordinarily so carried on,
- shall not be taken into account.

**Explanation I.**—Any undertaking which, either by itself or along with not more than two other independent undertakings, produces, supplies, distributes or controls one-half of any goods or provides or controls one-half of any services according to any one of the following criteria, namely, value, cost, price, quantity or capacity, of the goods or services or the number of workers employed for the production, supply, distribution or control of such goods or for the rendering of such services, shall be deemed to be a monopolistic undertaking.

**Explanation II.**—In determining the question as to whether an undertaking is or is not a monopolistic undertaking, regard shall be had to—

- (i) the lowest production made, or services rendered by the undertaking concerned during the relevant year, and
- (ii) the figures published by the Central Government with regard to the total production made or services rendered in India or any substantial part thereof during the relevant year.

**Explanation III.**—For the purposes of **Explanation II**, production includes supply, distribution or control of goods.

**Explanation IV.**—For the purposes of this clause, "relevant year" means any one year out of the three calendar years immediately preceding the preceding

calendar year in which the question whether an undertaking is or is not a monopolistic undertaking is determined.

- (k) "prescribed" means prescribed by rules made under this Act;
- (l) "price", in relation to the sale of any goods or to the performance of any services, includes every valuable consideration, whether direct or indirect, and includes any consideration which in effect relates to the sale of any goods or to the performance of any services although ostensibly relating to any other matter or thing;
- (m) "register" means the register kept by the Registrar under section 36;
- (n) "Registrar" means the Registrar of Restrictive Trade Agreements appointed under section 34 and includes every Additional, Joint, Deputy or Assistant Registrar appointed under that section;
- (o) "restrictive trade practice" means a trade practice which has or may have, the effect of preventing, distorting or restricting competition in any manner and in particular,—
  - (i) which tend to obstruct the flow of capital or resources into the stream of production, or
  - (ii) which tends to bring about manipulation of prices, or conditions of delivery or to affect the flow of supplies in the market relating to goods, or services in such manner as to impose on the consumers unjustified costs or restrictions;
- (p) "retailer", in relation to the sale of any goods, includes every person, other than a wholesaler, who sells the goods to any other person; and in respect of the sale of goods by a wholesaler, to any person for any purpose other than re-sale, includes that wholesaler;
- (q) "scheme of finance" means a scheme indicating the sources from which, and the terms and conditions on which, finances are proposed to be obtained by an undertaking;
- (r) "service" means service of any description which is made available to potential users and includes the provision of facilities in connection with banking, insurance, transport, supply of electrical or other energy, board or lodging or both, entertainment, amusement or the purveying of news or other information, but does not include the rendering of any service free of charge or under a contract of personal service;
- (s) "trade" means any trade, business, industry, profession or occupation relating to production, supply, distribution or control of goods and includes the provision of any services;
- (t) "trade association" means a body of persons (whether incorporated or not) which is formed for the purpose of furthering the trade interests of its members or of persons represented by its members;
- (u) "trade practice" means any practice relating to the carrying on of any trade, and includes—
  - (i) anything done by any person which controls or affects the price charged by, or the method of trading of, any trader or any class of traders,
  - (ii) a single or isolated action of any person in relation to any trade;
- (v) "undertaking" means an undertaking which is engaged in the production, supply, distribution, or control of goods of any description or the provision of service of any kind;



- (w) "value of assets", in relation to an undertaking, means the value of its assets as shown in its books of account after making provision for depreciation or for renewals, or diminution in value;
- (x) "wholesaler" in relation to the sale of any goods, means a person who sells the goods to any person for the purpose of resale;
- (r) word and expressions used but not defined in this Act and defined in the Companies Act, 1956 (1 of 1956), have the meanings respectively assigned to them in that Act.

3. *Act not to apply in certain cases.*—Unless the Central Government, by notification in the Official Gazette, otherwise directs, this Act shall not apply to—

- any undertaking owned or controlled by a Government company,
- any undertaking owned or controlled by the Government,
- any undertaking owned or controlled by a corporation (not being a company) established by or under any Central Provincial or State Act,
- any trade union or other association of workmen or employees formed for their own reasonable protection as such workmen or employees,
- any undertaking engaged in an industry, the management of which has been taken over by any person or body of persons in pursuance of any authorisation made by the Central Government under any law for the time being in force.

4. *Application of other laws not barred.*—(1) Save as otherwise provided in sub-section (2) or elsewhere in this Act, the provisions of this Act shall be in addition to, and not in derogation of, any other law for the time being in force.

(2) Notwithstanding anything contained in section 3 or elsewhere in this Act, so much of the provisions of this Act, as relate to matters in the respect of which specific provisions exist in the—

(i) Reserve Bank of India 1934 (2 of 1934), or the Banking Regulation Act, 1949 (10 of 1949), or

(ii) State Bank of India Act, 1955 (23 of 1955), or the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or

(iii) Insurance Act, 1938 (4 of 1938),

shall not apply to a banking company, the State Bank of India or a subsidiary bank, as defined in the State Bank of India (Subsidiary Banks) Act, 1959 (38 of 1959), or an insurer, as the case may be.

## CHAPTER II

### MONOPOLIES AND RESTRICTIVE TRADE PRACTICES COMMISSION

5. *Establishment and Constitution of the Commission.*—

(1) For the purposes of this Act, the Central Government shall establish, by notification in the Official Gazette, a commission to be known as the Monopolies and Restrictive Trade Practices Commission which shall consist of a Chairman and not less than two and not more than eight other members, to be appointed by the Central Government.

(2) The Chairman of the Commission shall be a person who is, or has been or is qualified to be, a Judge of the Supreme Court or of a High Court and the members

thereof shall be persons of ability, integrity and standing who have adequate knowledge or experience of, or have shown capacity in dealing with, problems relating to economics, law, commerce, accountancy, industry, public affairs or administration.

(3) Before appointing any person as a member of the Commission, the Central Government shall satisfy itself that the person does not, and will not, have, any such financial or other interest as is likely to affect prejudicially his functions as such member.

6. *Terms of office, conditions of service etc., of members.*—

(1) Every member shall hold office for such period, not exceeding five years, as may be specified by the Central Government in the notification made under sub-section (1) of section 5, but shall be eligible for re-appointment:

Provided that no member shall hold office as such for a total period exceeding ten years, or after he has attained the age of sixty-five years, whichever is earlier.

(2) Notwithstanding anything contained in sub-section (1), a member may—

- by writing under his hand and addressed to the Central Government resign his office at any time;
- be removed from his office in accordance with the provisions of section 7.

(3) A casual vacancy caused by the resignation or removal of the Chairman or any other members of the Commission under sub-section (2) or otherwise shall be filled by fresh appointment.

(4) No act or proceeding of the Commission shall be invalid by reason only of the existence of any vacancy among its members or any defect in the constitution thereof.

(5) The Chairman of the Commission and other members shall receive such remuneration and other allowances and shall be governed by such conditions of service as may be prescribed:

Provided that the remuneration of the Chairman or any other member shall not be varied to his disadvantage after his appointment.

(6) In the case of a difference of opinion among the members of the Commission, the opinion of the majority shall prevail and the opinion or order of the Commission shall be expressed in terms of the views of the majority.

(7) The Chairman of the Commission and every member shall, before entering upon his office, make and subscribe to an oath of office and of secrecy in such form, in such manner and before such authority as may be prescribed.

(8) Any member ceasing to hold office as such shall not hold any appointment in, or be connected with the management or administration of, any industry or undertaking to which this Act applies for a period of five years from the date on which he ceases to hold such office.

7. *Removal of members from office in certain circumstances.*—(1) The Central Government may remove from office any member, who—

- has been adjudged an insolvent, or
- has been convicted of an offence which, in the opinion of the Central Government, involves moral turpitude, or

- (c) has become physically or mentally incapable of acting as such member, or
- (d) has acquired such financial or other interest as is likely to affect prejudicially his functions as a member, or
- (e) has so abused his position as to render his continuance in office prejudicial to the public interest.

(2) Notwithstanding anything contained in sub-section (1), no member shall be removed from his office on the ground specified in clause (d) or clause (e) of that sub-section unless the Supreme Court, on a reference being made to it in this behalf by the Central Government, has on an inquiry held by it in accordance with such procedure as it may specify in this behalf, reported that the member ought on such grounds, to be removed.

8. *Appointment of Director and staff of the Commission.*—The Central Government may, in consultation with the Commission, appoint a Director of Investigation for making investigations for the purposes of this Act and may, in addition, make provision with respect to the number of members of the staff of the Commission and their conditions of service:

Provided that the conditions of service of the Director or any member of the staff of the Commission shall not be varied to his disadvantage after his appointment.

9. *Salaries, etc., to be defrayed out of the Consolidated Fund of India.*—The salaries and allowances payable to the members and the administrative expenses, including salaries, allowances and pensions, payable to or in respect of officers and other employees of the Commission shall be defrayed out of the Consolidated Fund of India.

#### JURISDICTION, POWERS AND PROCEDURE OF THE COMMISSION

10. *Inquiry into monopolistic or restrictive trade practices by Commission.*—The Commission may enquire into—

- (a) any restrictive trade practice—
  - (i) upon receiving a complaint of facts which constitute such practice from any trade or consumers' association having a membership of not less than twenty-five persons or from twenty-five or more consumers, or
  - (ii) upon a reference made to it by the Central Government or a State Government, or
  - (iii) upon an application made to it by the Registrar, or
  - (iv) upon its own knowledge or information;
- (b) any monopolistic trade practice, upon a reference made to it by the Central Government or upon its own knowledge or information.

11. *Investigation by Director before issue of process in certain cases.*—In respect of any restrictive trade practice of which complaint is made under sub-clause (i) of clause (a) of section 10, the Commission shall, before issuing any process requiring the attendance of the person complained against, cause a preliminary investigation to be made by the Director, in such manner as it may direct, for the purpose of satisfying itself that the complaint requires to be inquired into.

12. *Powers of the Commission.*—(1) The Commission shall, for the purposes of any inquiry under this Act have the same powers as are vested in a Civil Court under the Code of Civil Procedure, 1908 (5 of 1908),

while trying a ~~suite~~, in respect of the following matters, namely:—

- (a) the summoning and enforcing the attendance of any witness and examining him on oath;
- (b) the discovery and production of any document or other material object producible as evidence;
- (c) the reception of evidence on affidavits;
- (d) the requisitioning of any public record from any court or office;
- (e) the issuing of any commission for the examination of witnesses.

(2) Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 of the Indian Penal Code, (45 of 1860) and the Commission shall be deemed to be a civil court for the purposes of section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898 (5 of 1898).

(3) The Commission shall have power to require any person—

- (a) to produce before, and allow to be examined and kept by, an officer of the Commission specified in this behalf, such books, accounts or other documents in the custody or under the control of the person so required as may be specified or described in the requisition, being documents relating to any trade practice, the examination of which may be required for the purposes of this Act; and
- (b) to furnish to an officer so specified such information as respects the trade practice as may be required for the purposes of this Act or such other information as may be in his possession in relation to the trade carried on by any other person.

(4) For the purpose of enforcing the attending of witnesses the local limits of the Commission's jurisdiction shall be the limits of the territory of India.

13. *Orders of Commission may be subject to conditions, etc.*—(1) In making any order under this Act, the Commission may make such provisions not inconsistent with this Act, as it may think necessary or desirable for the proper execution of the order and any person who commits a breach of or fails to comply with any obligation imposed on him by any such provision shall be deemed to be guilty of an offence under this Act.

(2) An order made by the Commission may be general in its application at any time in the manner in which it was made.

(3) An order made by the Commission may be general in its application or may be limited to any particular class of traders or a particular class of trade practice or a particular trade practice or a particular locality.

14. *Orders where party concerned does not carry on business in India.*—Where any practice substantially falls within monopolistic or restrictive trade practice, or both, relating to the production, supply, distribution or control of goods of any description or the provision of any services and any party to such practice does not carry on business in India, an order may be made under this Act with respect to that part of the practices which is carried on in India.

15. *Restriction of application of orders in certain cases.*—No order made under this Act with respect to any monopolistic or restrictive trade practice shall operate so as to restrain—

- (a) the right of any person to restrain any infringement of a patent granted in India, or

- (b) any person as to the condition which he attaches to a licence to do anything, the doing of which but for the licence would be an infringement of a patent granted in India, or
- (c) the right of any person to export goods from India, to the extent to which the monopolistic or restrictive trade practice relates exclusively to the production, supply, distribution or control of goods for such export.

16. *Sittings of the Commission.*—(1) The Central office of the Commission shall be in Delhi but the Commission may sit at such places in India and at such times as may be most convenient for the exercise of its powers or functions under this Act.

(2) The powers or functions of the Commission may be exercised or discharged by Benches formed by the Chairman of the Commission from among the members.

17. *Hearing to be in public except in special circumstances.*—(1) Subject to the provisions of sub-section (2), the hearing of proceedings before the Commission shall be in public.

(2) Where the Commission is satisfied that it is desirable to do so by reason of the confidential nature of any offence of matter or for any other reason, the Commission may—

- (a) hear the proceeding or any part thereof in private;
- (b) give directions as to the persons who may be present thereat;
- (c) prohibit or restrict the publication of evidence given before the Commission (whether in public or in private) or of matters contained in documents filed before the Commission.

18. *Procedure of the Commission.*—(1) Subject to the provisions of this Act, the Commission shall have power to regulate—

- (a) the procedure and conduct of its business;
- (b) the procedure of benches of the Commission;
- (c) the delegation to one or more members of such powers or functions as the Commission may specify.

(2) In particular, and without prejudice to the generality of the foregoing provisions, the powers of the Commission shall include the power to determine the extent to which persons interested or claiming to be interested in the subject-matter of any proceeding before it are allowed to be present or to be heard, either by themselves or by their representatives or to cross-examine witnesses or otherwise to take part in the proceeding.

19. *Orders of the Commission to be noted in the register.*—The Commission shall cause an authenticated copy of every order made by it in respect of a restrictive trade practice to be forwarded to the Registrar who shall have it recorded in such manner as may be prescribed.

### CHAPTER III

#### CONCENTRATION OF ECONOMIC POWER

##### Part A

20. *Undertakings to which this part applies.*—This Part shall apply to—

- (a) an undertaking if the total value of
  - (i) its own assets, or

(ii) its own assets together with the assets of its inter-connected undertakings, is not less than twenty crores of rupees;

(b) a dominant undertaking—

- (i) where it is a single undertaking, the value of the assets, or
- (ii) where it consists of more than one undertaking, the sum total of the value of the assets of all the inter-connected undertakings constituting the dominant undertaking,

is not less than one crore of rupees.

*Explanation.*—The value referred to in this section shall be,—

(i) in the case of an undertaking referred to in clause

(a) or clause (b), as the case may be, the value of its assets on the last day of its financial year which closes during the calendar year immediately preceding the calendar year in which the question arises as to whether this Part does or does not apply to such undertaking; and

(ii) in the case of an inter-connected undertaking, the value of its assets on the last day of its financial year which closes during the calendar year immediately preceding the calendar year in which the question arises as to whether this Part does or does not apply to the undertaking referred to in clause (a) or clause (b).

21. *Expansion of undertakings.*—(1) Subject to the provisions of section 23, where an undertaking to which this Part applies proposes to substantially expand its activities by the issue of fresh capital or by the installation of new machinery or other equipment or in any other manner, it shall before taking any action to give effect to the proposal for such expansion, give to the Central Government notice, in the prescribed form, of its intention to make such expansion, stating therein the scheme of finance with regard to the proposed expansion, whether it is connected with any other undertaking or undertakings and if so, giving particulars relating to all the inter-connected undertakings and such other information as may be prescribed.

(2) Notwithstanding anything contained in any other law for the time being in force no undertaking shall give effect to any proposal for its substantial expansion unless such proposal has been approved by the Central Government.

*Explanation.*—For the purpose of this section, an undertaking shall be deemed to expand substantially if, after such expansion,—

(a) in the case of an undertaking to which clause (a) of section 20 applies,—

(i) the value of its assets, before the expansion, would result in an increase by not less than twenty-five per cent of such value, or

(ii) the production, supply or distribution of any goods or the provision of any services by it before the expansion would result in an increase by not less than twenty-five per cent of the goods produced, supplied, distributed or controlled, or services provided, by it;

(b) in the case of an undertaking to which clause (b) of section 20 applies, the production, supply, distribution or control of any goods or the provision of any services by it would result in an increase by not less than twenty-five per cent of the goods produced, supplied, distributed or controlled, or services provided, by it before the expansion.

(3) (a) The Central Government may call upon the undertaking concerned to satisfy it that the proposed expansion or the scheme of finance with regard to such expansion is not likely to lead to the concentration of economic power to the common detriment or is not likely to be prejudicial to the public interest in any other manner and thereupon the Central Government may, if it is satisfied that it is expedient in the public interest so to do, by order accord approval to the proposal for such expansion.

(b) If the Central Government is of opinion that no such order as is referred to in clause (a) can be made without a further inquiry, it may refer the application to the Commission for an inquiry and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon.

(c) Upon receipt of the report of the Commission, the Central Government may pass such orders with regard to the proposal for the expansion of the undertaking as it may think fit.

(d) No scheme of any expansion approved by the Central Government and no scheme of finance with regard to such expansion shall be modified except with the previous approval of the Central Government.

(4) Nothing in this section shall apply to any industrial undertaking (which is not a dominant undertaking) to which section 13 of the Industries (Development and Regulation) Act, 1951 (65 of 1951), applies, in so far as the expansion relates to production of the same or similar type of goods.

22. *Establishment of new undertakings.*—(1) No person or authority, other than Government, shall after the commencement of this Act, establish any new undertaking which, when established, would become an inter-connected undertaking of an undertaking to which clause (a) of section 20 applies, except under, and in accordance with, the previous permission of the Central Government.

(2) Any person or authority intending to establish a new undertaking referred to in sub-section (1) shall, before taking any action for the establishment of such undertaking, make an application to the Central Government in the prescribed form for that Government's approval to the proposal of establishing any undertaking and shall set out in such application information with regard to the inter-connection, if any, new of the undertaking (which is intended to be established) with every other undertaking, the scheme of finance for the establishment of the new undertaking and such other information as may be prescribed.

(3) (a) The Central Government may call upon the person or authority to satisfy it that the proposal to establish a new undertaking or the scheme of finance with regard to such proposal is not likely to lead to the concentration of economic power to the common detriment or is not likely to be prejudicial to the public interest in any other manner and thereupon the Central Government may, if it is satisfied that it is expedient in the public interest so to do, by order accord approval to the proposal.

(b) If the Central Government is of opinion that no such approval as is referred to in clause (a) can be made without further inquiry, it may refer the application to the Commission for an inquiry and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon.

(c) Upon receipt of the report of the Commission, the Central Government may pass such orders with

regard to the proposal for the establishment of an new undertaking as it may think fit.

(d) No scheme of finance on the strength of which the establishment of a new undertaking has been approved by the Central Government shall be modified except with the previous approval of that Government.

23. *Merger, amalgamation and take over.*—(1) Notwithstanding anything contained in any other law for the time being in force,

(a) no scheme of merger or amalgamation of an undertaking to which this Part applies with any other undertaking,

(b) no scheme of merger or amalgamation of two or more undertakings which would have the effect of bringing into existence an undertaking to which clause (a) or clause (b) of section 20 would apply, shall be sanctioned by any Court or be recognised for any purpose or be given effect to unless the scheme for such merger or amalgamation has been approved by the Central Government under this Act.

(2) If any undertaking to which this Part applies frames a scheme of merger or amalgamation with any other undertaking, or a scheme of merger or amalgamation is proposed between two or more undertakings, and, if as a result of such merger or amalgamation, an undertaking would come into existence to which clause (a) or clause (b) of section 20 would apply, it shall, before taking any action to give effect to the proposed scheme, make an application to the Central Government in the prescribed form with a copy of the scheme annexed thereto, for the approval of the scheme.

(3) Nothing in sub-section (1) or sub-section (2) shall apply to the scheme of merger or amalgamation of such inter-connected undertakings as are not dominant undertakings and as produce the same goods.

(4) If an undertaking to which this Part applies proposes to acquire by purchase, take over or otherwise the whole or part of an undertaking which will or may result either—

(a) in the creation of an undertaking to which this Part would apply; or

(b) in the undertaking becoming an inter-connected undertaking of an undertaking to which this Part applies,

it shall, before giving any effect to its proposals, make an application in writing to the Central Government in the prescribed form of its intention to make such acquisition, stating therein information regarding its inter-connection with other undertakings, the scheme of finance with regard to the proposed acquisition and such other information as may be prescribed.

(5) No proposal referred to in sub-section (4) which has been approved by the Central Government and no scheme of finance with regard to such proposal shall be modified except with the previous approval of the Central Government.

(6) On receipt of an application under sub-section (2) or sub-section (4), the Central Government may, if it thinks fit, refer the matter to the Commission for an inquiry and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon.

(7) On receipt of the Commission's report the Central Government may pass such orders as it may think fit.



(8) Notwithstanding anything contained in any other law for the time being in force, no proposal to acquire by purchase, take over or otherwise of an undertaking to which this Part applies shall be given effect to unless the Central Government has made an order according to its approval to the proposal.

(9) Nothing in sub-section (4) shall apply to the acquisition by an undertaking, which is not a dominant undertaking, of another undertaking which is not also a dominant undertaking, if both such undertakings produce the same goods:

Provided that nothing in this sub-section shall apply as a result of such acquisition an undertaking comes into existence to which clause (a) or clause (b) of section 20 would apply.

**24. Merger, amalgamation of take over in contravention of section 23.**—Where any merger, amalgamation or take over is being, or has been effected in contravention of the provisions of section 23, the Central Government may, after such consultation with the Commission as it may consider necessary, direct, without prejudice to any penalty which may be imposed under this Act for such contravention, the undertaking concerned to cease and desist from such contravention, to divest itself of the stock or other share capital or assets so acquired and to carry out such further directions as the Central Government may, in all the circumstances of the case issue.

**25. Directors of undertakings not to be appointed directors of other undertakings.**—(1) Notwithstanding anything to the contrary contained in any other law for the time being in force, no person, who is a director of an undertaking to which this Part applies, shall be appointed, after the commencement of this Act, as a director of any other undertaking except with the prior approval of the Central Government and any appointment contrary to the provisions of this section shall be void:

Provided that the approval of the Central Government shall not be necessary to the appointment of a person as a director of an undertaking, unless he holds such office in more than ten inter-connected undertakings.

(2) Notwithstanding anything contained in sub-section (1), no act done by a person as a director shall be invalid merely on the ground that his appointment was void by reason of this section or of any provision of this Part:

Provided that nothing in this section shall be deemed to give validity to any act done by a director after his appointment has been shown to the undertaking and the director concerned to be void.

(3) Notwithstanding anything to the contrary contained in any other law for the time being in force every director holding such directorship as is not consistent with the provisions of this section shall unless his appointment expires earlier obtain within a period of one year from the commencement of this Act the approval of the Central Government to such appointment and if he fails to do so his appointment shall on the expiry of the said period become void.

(4) The provisions of sub-section (1), (2) and (3) shall, as far as may be, apply to partners of any firm which is an undertaking within the meaning of this Act, as they apply to directors of companies.

**26. Registration of undertakings to which Part A applies.**—(1) Every undertaking to which this Part applies

at the commencement of this Act or to which the provisions of that Part become applicable thereafter, shall, within sixty days from such commencement or the date on which that Part becomes first applicable to it, or within such further time as the Central Government may, on sufficient cause being shown, allow, make an application (in such form and containing such particulars as may be prescribed) to the Central Government for its registration as such undertaking.

(2) The Central Government shall, on receipt of the application referred to in sub-section (1), forthwith enter the name of the undertaking in a register to be maintained for the purpose and issue to the undertaking concerned a certificate of registration containing such particulars as may be prescribed.

(3) Any undertaking which has ceased to be an undertaking to which this Part applies may, at any time after such cesser, apply to the Central Government for cancellation of the registration and the Central Government may, after making such inquiry as it may think fit, cancel the registration of such undertaking and notify such cancellation in the Official Gazette.

### Part B

**27. Division of undertakings.**—(1) Notwithstanding anything contained in this Act or in any other law for the time being in force, the Central Government may, if it is of opinion that the working of an undertaking to which Part A of this Chapter applies, is prejudicial to the public interest, or has led, or is leading, or is likely to lead, to the adoption of any monopolistic or restrictive trade practices, refer the matter to the Commission for an inquiry as to whether it is expedient in the public interest to make an order;—

(a) for the division of any trade of the undertaking by the sale of any part of the undertaking or assets thereof, or

(b) for the division of any undertaking or inter-connected undertakings into such number of undertakings as the circumstances of the case may justify,

and the Commission may, after such hearing as it thinks fit, report to the Central Government its opinion thereon and shall, where it is of opinion that a division ought to be made, specify the manner of the division and compensation, if any, payable for such division.

**Explanation.**—For the purpose of this section all activities carried on by way of trade by an undertaking or two or more inter-connected undertakings may be treated as a single trade.

(2) If the Commission so recommends, the Central Government may, notwithstanding anything contained in any other law for the time being in force, by an order in writing, direct the division of any trade of the undertaking or of the undertaking or inter-connected undertakings.

(3) Notwithstanding anything contained in any other law for the time being in force, the order referred to in sub-section (2) may provide for all such matters as may be necessary to give effect to the division of any trade of the undertaking or of the undertaking or inter-connected undertakings, including,—

(a) the transfer or vesting of property, rights, liabilities or obligations;

(b) the adjustment of contracts either by the discharge

or reduction of any liability or obligation or otherwise;

- (c) the creation, allotment, surrender or cancellation of any shares, stock or securities;
- (d) the payment of compensation;
- (e) the formation, or winding up of an undertaking or the amendment of the memorandum and articles of association or any other instruments regulating the business of any undertaking;
- (f) the extent to which and the circumstances in which provisions of the order affecting an undertaking may be altered by the undertaking and the registration thereof;
- (g) the continuation, with such changes as may be necessary, of parties to any legal proceeding.

(4) Where the Central Government makes, or intends to make, an order for any purpose mentioned in sub-section (3), it may, with a view to achieving that purpose, prohibit or restrict the doing of anything that might impede the operation or making of the order and may impose on any person such obligations as to the carrying on of any activities or the safeguarding of any assets, as it may think fit, or it may, by order, provide for the carrying on of any activities or safeguarding of any assets either by the appointment of a person to conduct or supervise the conduct of, any such activities or in any other manner.

(5) Notwithstanding anything contained in any other law for the time being in force or in any contract or in any memorandum or articles of association, an officer of a company who ceases to hold office as such in consequence of the division of an undertaking or inter-connected undertakings shall not be entitled to claim any compensation for such cesser.

### Part C

**28. Matters to be considered by the Central Government before according approval.**—In exercising its powers under Part A or Part B of this Chapter, the Central Government, or, as the case may be, the Commission, shall take into account all matters which appear in the particular circumstances to be relevant and, among other things, regard shall be had to the need consistently with the general economic position of the country—

- (a) to achieve the production, supply and distribution, by most efficient and economical means of goods of such types and qualities, in such volume and at such prices as will best meet the requirements of the defence of India, and home and overseas markets;
- (b) to have trade organised in such a way that its efficiency is progressively increased;
- (c) to ensure the best use and distribution of men, materials and industrial capacity in India;
- (d) to effect technical and technological improvements in trade and expansion of existing markets and the opening up of new markets;
- (e) to encourage new enterprises as a countervailing force to the concentration of economic power to the common detriment;
- (f) to regulate the control of the material resources of the community to subserve the common good; and
- (g) to reduce disparities in development between different regions and more especially in relation to areas which have remained markedly backward.

**29. Opportunity of being heard.**—Before making an order under this Chapter, the Central Government shall give a reasonable opportunity of being heard to a person who is, or may be, in its opinion, interested in a matter under the consideration of that Government.

**30. Time within which action should be taken.**—(1) Where the Central Government is of opinion that no approval can be accorded under section 21 or section 22, or no order under section 23, can be made, unless a further inquiry has been held into the matter by the Commission, it shall refer the matter to the Commission within sixty days from the date of receipt of the notice under section 21, application under section 22 or the proposal under section 23, as the case may be:

Provided that where further particulars in connection with any such notice, application or proposal or called for by the Central Government, the said period of sixty days shall be computed from the date on which such further particulars are furnished to that Government.

(2) Where any notice, application or proposal under this Chapter is referred to the Commission for an inquiry it shall be the duty of the Commission to make its report on the matter referred to it within ninety days from the date on which the reference is received by it, except where the Commission, for special reasons recorded by it in writing, is of opinion that the report cannot be made by it within the said period of ninety days.

(3) Every notice, application or proposal in respect of which a report has been submitted by the Commission to the Central Government shall be disposed of by that Government within sixty days from the date of receipt of the report of the Commission.

(4) Every notice, application or proposal which has not been referred to the Commission, shall be disposed of by the Central Government within ninety days from the date on which such notice, application or proposal, as the case may be, is received by it, except where the Central Government, for special reasons recorded by it in writing, is of opinion that the notice, application or proposal, as the case may be, cannot be disposed of within the said period of ninety days.

## CHAPTER IV MONOPOLISTIC TRADE PRACTICES

**31. Investigation by Commission by monopolistic trade practices.**—(1) Where it appears to the Central Government that one or more monopolistic undertakings are including in any monopolistic trade practice or that, monopolistic trade practices prevail in respect of any goods or services, that Government may refer the matters to the Commission for inquiry and the Commission shall, after such hearing as it thinks fit, report to the Central Government its findings thereon.

(2) If as a result of such inquiry, the Commission makes a finding to the effect that, having regard to the economic conditions prevailing in the country and to all other matters which appear in particular circumstances to be relevant, the trade practice operates or is likely to operate against the public interest, the Central Government may, notwithstanding anything contained in any other law for the time being in force, pass such orders as it may think fit to remedy or prevent any mischiefs which result or may result from such trade practice.

(3) Any order made by the Central Government under this section may include an order—

- (a) regulating the production, supply, distribution or control of any goods by the undertaking or the

control or supply of any service by it and fixing the terms of sale (including prices) or supply, thereof;

- (b) prohibiting the undertaking from resorting to any act or practice or from pursuing any commercial policy which prevents or lessens, or is likely to prevent or lessen, competition in the production, supply or distribution of any goods or provision of any services;
- (c) fixing standards for the goods used or produced by the undertaking;
- (d) declaring unlawful, except to such extent and in such circumstances as may be provided by or under the order, the making or carrying out of any such agreement as may be specified or described in the order;
- (e) requiring any party to any such agreement as may be so specified or described to determine the agreement within such time as may be so specified, either wholly or to such extent as may be so specified.

32. *Monopolistic trade practice when to be deemed to be prejudicial to public interest.*—For the purposes of this Chapter, a monopolistic trade practice shall be deemed to be prejudicial to public interest if, having regard to the economic conditions prevailing in the country and to all other matters which are relevant in the particular circumstances, the effect of the trade practice is or would be—

- (a) to increase unreasonably the cost relating to the production, supply or distribution of goods or the performance of any service;
- (b) to increase unreasonably—
  - (i) the prices at which goods are sold, or
  - (ii) the profits derived from the production, supply or distribution of goods or from the performance of any service;
- (c) to reduce or limit unreasonably competition in the production, supply or distribution of any goods (including their sale or purchase) or the provision of any service;
- (d) to limit or prevent unreasonably the supply of goods to consumers, or the provision of any service;
- (e) to result in a deterioration in the quality of any goods or in the performance of any service.

## CHAPTER V

### REGISTRATION OF AGREEMENT RELATING TO RESTRICTIVE TRADE PRACTICES

33. *Registrable agreements relating to restrictive trade practices.*—(1) Any agreement relating to a restrictive trade falling within one or more of the following categories shall be subject to registration in accordance with the provisions of this Chapter namely:—

- (a) any agreement which restricts, or is likely to restrict, by any method the persons or classes of persons to whom goods are sold or from whom goods are brought;
- (b) any agreement requiring a purchaser of goods, as a condition of such purchase, to purchase some other goods;
- (c) any agreement restricting in any manner the purchaser in the course of his trade from acquiring or otherwise dealing in any goods other than those of the seller or any other person;
- (d) any agreement to purchase or sell goods or to tender

for the sale for purchase of goods only at prices or on terms or conditions agreed upon between the sellers or purchasers:

- (e) any agreement to grant or allow concessions or benefits, including allowances, discount, rebates or credit in connection with, or by reason of, dealings;
- (f) any agreement to sell goods on condition that the prices to be charged on re-sale by the purchaser shall be the prices stipulated by the seller unless it is clearly stated that prices lower than those prices may be charged;
- (g) any agreement to limit, restrict or withhold the output or supply of any goods or allocate any area or market for the disposal of the goods;
- (h) any agreement not to employ or restrict the employment of any method, machinery or process in the manufacture of goods;
- (i) any agreement for the exclusion from any trade association of any person carrying on or intending to carry on, in good faith the trade in relation to which the trade association is formed;
- (j) any agreement to sell goods at such prices as would have the effect of eliminating competition or a competitor;
- (k) any agreement not hereinbefore referred to in this section which the Central Government may, by notification in the Official Gazette, specify for the time being as being one relating to a restrictive trade practice within the meaning of this subsection pursuant to any recommendation made by the Commission in this behalf;
- (l) any agreement to enforce the carrying out of any such agreement as is referred to in this subsection.

(2) The provisions of this section shall apply, so far as may be, in relation to agreements making provision for services as they apply in relation to agreements connected with the production, supply, distribution or control of goods.

(3) No agreement falling within this section shall be subject to registration in accordance with the provisions of this Chapter if it is expressly authorised by or under any law for the time being in force or has the approval of the Central Government or if the Government is a party to such agreement.

34. *Registrar of restrictive trade agreements.*—(1) For maintaining a register of agreements subject to registration under this Act and for performing the other functions imposed on him by this Act, there shall be appointed by the Central Government an officer to be known as the Registrar of Restrictive Trade Agreements.

(2) The Central Government may appoint as many persons as it thinks fit to be Additional, Joint, Deputy or Assistant Registrars for the purpose of assisting the Registrar in the performance of his functions under this Act.

35. *Registration of agreements.*—(1) The Central Government shall, by notification in the Official Gazette, specify a day (hereinafter referred to as the appointed day) on and from which every agreement falling within section 33 shall become registrable under this Act:

Provided that different days may be appointed for different categories of agreements.



(2) Within sixty days from the appointed day, in the case of an agreement existing on that day, and in the case of an agreement made after the appointed day, within sixty days from the making thereof, there shall be furnished to the Registrar in respect of every agreement falling within section 33, the following particulars, namely:—

- (a) the names of the persons who are parties to the agreement; and
- (b) the whole of the terms of the agreement.

(3) If at any time after the agreement has been registered under this section, the agreement is varied (whether in respect of the parties or in respect of the terms thereof) or determined otherwise than by efflux of time, particulars of the variation or determination shall be furnished to the Registrar within one month after the date of the variation or determination.

(4) The particulars to be furnished under this section in respect of an agreement shall be furnished—

- (a) in so far as the agreement or any variation or determination of the agreement is made by an instrument in writing, by the production of the original or a true copy of that agreement; and
- (b) in so far as the agreement or any variation or determination of the agreement is not so made, by the production of a memorandum in writing signed by the person by whom the particulars are furnished.

(5) The particulars to be furnished under this section shall be furnished by or on behalf of any person who is a party to the agreement or, as the case may be, was a party thereto immediately before its determination, and where the particulars are duly furnished by or on behalf of any such person, the provisions of this section shall be deemed to be complied with on the part of all such persons.

**Explanation I.**—Where any agreement subject to registration under this section relates to the production supply, distribution or control of goods or the performance of any services in India and any party to the agreement carries on business in India, the agreement shall be deemed to be an agreement within the meaning of this section, notwithstanding that any other party to the agreement does not carry on business in India.

**Explanation II.**—Where an agreement is made by a trade association, the agreement for the purposes of this section shall be deemed to be made by all persons who are members of the association or represented thereon as if each such person were a party to the agreement.

**Explanation III.**—Where specific recommendations, whether express or implied, are made by or on behalf of a trade association to its members, or to any class of its members, as to the action to be taken or not to be taken by them in relation to any matter affecting the trade conditions of those members, this section shall apply in relation to the agreement for the constitution of the association notwithstanding any provision to the contrary therein as if it contained a term by which each such member and any person represented on the association by any such member agreed with the association to comply with those recommendations and any subsequent recommendations affecting those recommendations.

**36. Keeping the register.**—(1) For the purposes of this Act, the Registrar shall keep a register in the prescribed form and shall enter therein the prescribed parti-

culars as regards agreements subject to registration.

(2) The Registrar shall provide for the maintenance of a special section of the register for the entry or filling in that section of such particulars as the Commission may direct, being—

- (a) particulars containing information, the publication of which would, in the opinion of the Commission, be contrary to the public interest;
- (b) particulars containing information as to any matter being information the publication of which, in the opinion of the Commission, would substantially damage the legitimate business interests of any person.

(3) Any party to an agreement required to be registered under section 35 may apply to the Registrar—

- (i) for the agreement or any part of the agreement to be excluded from the provisions of this Chapter relating to the registration on the ground that the agreement or part thereof has no substantial economic significance, or
- (ii) for inclusion of any provision of the agreement in the special section,

and the Registrar shall dispose of the matter in conformity with any general or special directions issued by the Commission in this behalf.

## CHAPTER VI

### CONTROL OF CERTAIN RESTRICTIVE TRADE PRACTICES

**37. Investigation into restrictive trade practices by Commission.**—(1) The Commission may inquire into any restrictive trade practice, whether the agreement, if any, relating thereto has been registered under section 35 or not, which may come before it for inquiry and, if, after such inquiry it is of opinion that the practice is prejudicial to the public interest, the Commission may, by order, direct that—

- (a) the practice shall be discontinued or shall not be repeated;
- (b) the agreement relating thereto shall be void in respect of such restrictive trade practice or shall stand modified in respect thereof in such manner as may be specified in the order.

(2) The Commission may, instead of making any order under this section, permit the party to any restrictive trade practice, if he so applies to take such steps within the time specified in this behalf by the Commission as may be necessary to ensure that the trade practice is no longer prejudicial to the public interest, and, in any such case, if the Commission is satisfied that the necessary steps have been taken within the time specified, it may decide not to make any order under this section in respect of that trade practice.

(3) No order shall be made under sub-section (1) in respect of—

- (a) any agreement between buyers relating to goods which are bought by the buyers for consumption and not for ultimate re-sale whether in the same or different form, type or specie or as constituent of some other goods;
- (b) a trade practice which is expressly authorised by any law for the time being in force.

(4) Notwithstanding anything contained in this Act, if the Commission, during the course of an inquiry under sub-section (1), finds that a monopolistic

undertaking is indulging in restrictive trade practices. it may, after passing such orders under sub-section (1) or sub-section (2) with respect to the restrictive trade practices as it may consider necessary, submit the case along with its findings thereon to the Central Government with regard to any monopolistic trade practice for such action as that Government may take under section 31.

**38. Presumption as to the public interest.**—(1) For the purposes of any proceedings before the Commission under section 37, a restrictive trade practice shall be deemed to be prejudicial to the public interest unless the Commission is satisfied of any one or more of the following circumstances, that is to say—

- (a) that the restriction is reasonably necessary, having regard to the character of the goods to which it applies, to protect the public against injury (whether to persons or to premises) in connection with the consumption, installation or use of those goods;
- (b) that the removal of the restriction would deny to the public as purchasers, consumers or users of any goods, other specific and substantial benefits or advantages enjoyed or likely to be enjoyed by them as such, whether by virtue of the restriction itself or of any arrangements or operations resulting therefrom;
- (c) that the restriction is reasonably necessary to counter-act measures taken by any one person not party to the agreement with a view to preventing or restricting competition in or in relation to the trade or business in which the persons party thereto are engaged;
- (d) that the restriction is reasonably necessary to enable the persons party to the agreement to negotiate fair terms for the supply of goods to, or the acquisition of goods from, any one person not party thereto who controls a preponderant part of the trade or business of acquiring or supplying such goods, or for the supply of goods to any person not party to the agreement and not carrying on such a trade or business who, either alone or in combination with any other such persons controls a preponderant part of the market for such goods;
- (e) that, having regard to the conditions actually obtaining or reasonably foreseen at the time of the application, the removal of the restriction would be likely to have a serious and persistent adverse effect on the general level of unemployment in an area, or in areas taken together, in which a substantial proportion of the trade, or industry to which the agreement relates is situated;
- (f) that, having regard to the conditions actually obtaining or reasonably foreseen at the time of the application, the removal of the restriction would be likely to cause a reduction in the volume or earnings of the export business which is substantial either in relation to the whole export business of India or in relation to the whole business (including export business) of the said trade or industry;
- (g) that the restriction is reasonably required for purposes in connection with the maintenance of any other restriction accepted by the parties, whether under the same agreement or under any other agreement between them, being a restriction which is found by the Commission not to be contrary to the public interest upon grounds other than those

specified in this paragraph, or has been so found in previous proceedings before the Commission; or

- (h) that the restriction does not directly or indirectly restrict or discourage competition to any material degree in any relevant trade or industry and is not likely to do so,

and is further satisfied (in any such case that the restriction is not unreasonable having regard to the balance between those circumstances and any detriment to the public or to persons not parties to the agreement (being purchasers, consumers or users of goods produced or sold by such parties, or persons engaged or seeking to become engaged in the trade or business of selling such goods or of producing or selling similar goods) resulting or likely to result from the operation of the restriction,

(2) In this section "purchasers" "consumers" and "users" include persons purchasing, consuming or using for the purpose or in course of trade or business or for public purposes; and references in this section to any one person include references to any two or more persons being inter-connected undertakings or individuals carrying on business in partnership with each other.

**39. Special conditions for avoidance of conditions for maintaining re-sale prices.**—(1) Without prejudice to the provisions of this Act with respect to registration and to any of the powers of the Commission or of the Central Government under this Act, any term or condition of a contract for the sale of goods by a person to a wholesaler or retailer or any agreement between a person and a wholesaler or retailer relating to such sale shall be void in so far as it purports to establish or provide for the establishment of minimum prices to be charged on the re-sale of goods in India.

(2) After the commencement of this Act, no supplier of goods whether directly or through any person or association of persons acting on his behalf shall notify to dealers or otherwise publish on or in relation to any goods, a price stated or calculated to be understood as the minimum price which may be charged on the re-sale of the goods in India.

(3) This section shall apply to patented articles (including articles made by a patented process and articles made under any trade mark) as it applies to other goods and notice of any term or condition which is void by virtue of this section or which would be so void if included in a contract of sale or agreement relating to the sale of such article shall be of no effect for the purpose of limiting the right of dealer to dispose of that article without infringement of the patent or trade mark, as the case may be:

Provided that nothing in this section shall affect the validity as between the parties and their successors, of any term or condition of a licence granted by the proprietor of a patent or trade mark by a licensee under any such licence or of any assignment of a patent or trade mark, so far as it regulates the price at which articles produced or processed by the licensee or the assignee may be sold by him.

**Explanation.**—In this section and in section 40, the term "supplier", in relation to supply of any goods, means a person who supplies goods to any person for the ultimate purpose of re-sale and includes a wholesaler, and the term "dealer" includes a supplier and a retailer.

**40. Prohibition of other measures for maintaining re-sale prices.**—(1) Without prejudice to the provisions of this Act with respect to registration and to any of the powers of the Commission or of the Central Government under this Act, no supplier shall withhold supplies of any

goods from any wholesaler or retailer seeking to obtain them for re-sale in India on the ground that the wholesaler or retailer—

- (a) has sold in India at a price below re-sale price, goods obtained, either directly or indirectly, from that supplier, or has supplied such goods, either directly or indirectly, to a third party who had done so; or
- (b) is likely if the goods are supplied to him to sell them in India at a price below that price or supply them, either directly or indirectly, to a third party who would be likely to do so.

(2) Nothing contained in sub-section (1) shall render it unlawful for a supplier to withhold supplies of goods from any wholesaler or retailer or to cause or procure another supplier to do so if he has reasonable cause to believe that the wholesaler or the retailer, as the case may be, has been using as loss leaders any goods of the same or a similar description whether obtained from that supplier or not.

(3) A supplier of goods shall be deemed to be withholding supplies of goods from a dealer if he—

- (a) refuses or fails to supply those goods to the order of the dealer;
- (b) refuses to supply those goods to the dealer except at prices, or on terms or conditions as to credit, discount or other matters which are less favourable than those at or on which he normally supplies those goods to other dealers carrying on business in similar circumstances; or
- (c) treats a dealer, in spite of a contract with such dealer for the supply of goods, in a manner less favourable than that in which he normally treats other dealers in respect of time or methods of delivery or other matters arising in the performance of the contract.

(4) A supplier shall not be deemed to be withholding supplies of goods on any of the grounds mentioned in sub-section (1), if, in addition to that ground, he has any other ground which alone would entitle him to withhold such supplies.

*Explanation I.*—"Re-sale price", in relation to sale of goods of any description, means any price notified to the dealer or otherwise published by or on behalf of the supplier of the goods in question (whether lawful or not) as the price or minimum price which is to be charged on, or is recommended as appropriate for, a sale of that description or any price prescribed or purporting to be prescribed for that purpose by any contract or agreement between the wholesaler or retailer and any such supplier.

*Explanation II.*—A wholesaler or retailer is said to use goods as loss leaders when he re-sells them otherwise than in a genuine seasonal or clearance sale not for the purpose of making a profit on the re-sale but for the purpose of attracting to the establishment at which the goods are sold, customers likely to purchase other goods or otherwise for the purpose of advertising his business.

**41. Power of Commission to exempt particular classes of goods from sections 39 and 40.**—(1) The Commission may, on a reference made to it by the Registrar or any other person interested, by order, direct that goods of any class specified in the order shall be exempt from the operation of sections 39 and 40 if the Commission is satisfied that in default of a system of maintained minimum re-sale prices applicable to those goods—

- (a) the quality of goods available for sale or the varieties of goods so available would be substantially re-

duced to the detriment of the public as consumers or users of those goods, or

- (b) the prices at which the goods are sold by retail would, in general and in the long run, be increasing to the detriment of the public as such consumers or users, or
- (c) any necessary services actually provided in connection with or after the sale of the goods by retail would cease to be so provided or would be substantially reduced to the detriment of the public as such consumers or users.

(2) On a reference under this section in respect of goods of any class which have been the subject of proceedings before the Commission under section 31, the Commission may treat as conclusive any evidence of fact made in those proceedings.

## CHAPTER VII

### POWER TO OBTAIN INFORMATION AND APPOINT INSPECTOR

**42. Power of registrar to obtain information.**—(1) If the Registrar has reasonable cause to believe that an person is a party to an agreement subject to registration under section 35, he may give notice to that person requiring him within such time, not less than thirty days as may be specified in the notice, to notify to the Registrar whether he is a party to any such agreement and, if so to furnish to the Registrar such particulars of the agreement as may be specified in the requisition.

(2) The Registrar may give notice to any person to whom particulars are furnished under section 35 in respect of an agreement or to any other person being a party to the agreement requiring him to furnish to the Registrar such further documents or information in his possession or control as the Registrar may consider expedient for the purpose of, or in connection with, the registration of the agreement.

(3) Where a notice under this section is given to a trade association, the notice may be given to the secretary or other similar officer of the association and for the purposes of this section any such association shall be treated as a party to an agreement to which members of the association, or persons represented on the association by those members, are parties as such.

(4) If the particulars called for under sub-section (1) or sub-section (2) are not furnished, the Commission may, on the application of the Registrar,—

- (a) order the person or, as the case may be, the association to furnish those particulars to the Registrar within such time as may be specified in the order;
- (b) authorise the Registrar to treat the particulars contained in any document or information in his possession as the particulars relating to the agreement, or
- (c) in case the Commission is satisfied that the failure to furnish the particulars is wilful, make an order restraining wholly or partly the parties to the agreement from acting on such agreement and from making any other agreement to the like effect.

**43. Power to call for information.**—Notwithstanding anything contained in any other law for the time being in force, the Central Government may, by a general or special order, call upon any undertaking to furnish to that Government periodically or as and when required any information concerning the activities carried on by it in connection with the connection between it and any other

undertaking, including such other information relating to its organisation, business, cost of production, conduct, trade practice or management, as may be prescribed to enable that Government to carry out the purposes of this Act.

**44. Power to appoint Inspectors.**—(1) The Central Government may, if it is of opinion that there are circumstances suggesting that an undertaking is indulging in any monopolistic or restrictive trade practice or is, in any way, trying to acquire any control over any dominant or inter-connected undertaking, appoint one or more inspectors for making an investigation into the affairs of the undertaking.

(2) The provisions of section 240 and section 240A of the Companies Act, 1956, (1 of 1956) so far as may be, shall apply to an investigation made by an inspector appointed under this section as they apply to an investigation made by the inspector appointed under that Act.

## CHAPTER VIII

### OFFENCES AND PENALTIES

**45. Penalty for contravention of section 21.**—If any person contravenes the provisions of section 21 or any order made thereunder, he shall be punishable with fine which may extend to rupees one lakh.

**46. Penalty for contravention of section 22 or section 23 or section 24 or section 27.**—If any person contravenes the provisions of section 22 or section 23 or section 24 or section 27, he shall be punishable with fine which may extend to rupees one lakh, and where the offence is a continuing one, with a further fine which may extend to one thousand rupees for every day, after the first, during which such contravention continues.

**47. Penalty for contravention of section 25.**—If any person contravenes, without any reasonable excuse, the provisions of section 25 he shall be punishable with fine which may extend to two thousand rupees, and where the offence is a continuing one, with a further fine which may extend to two hundred rupees for every day, after the first, during which such contravention continues.

**48. Penalty for failure to register agreements.**—(1) If any person fails, without any reasonable excuse, to register an agreement which is subject to registration under this Act, he shall be punishable with fine which may extend to five thousand rupees, and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day, after the first, during which such failure continues.

(2) If any undertaking, to which Part A of Chapter III applies, fails, without any reasonable excuse, to make an application under section 26, to register itself as an undertaking to which that Part applies, then,—

- (a) the undertaking, where it is a company, or
  - (b) every partner of the undertaking, where it is a firm, or
  - (c) where it is not a company or a firm, every person who owns or controls the undertaking,
- shall be punishable with fine which may extend to one thousand rupees, and where the offence is a continuing one, with a further fine which may extend to fifty rupees for every day, after the first, during which such failure continues.

**49. Penalty for offences in relation to furnishing of information.**—(1) If any person fails, without any reasonable excuse, to furnish any information required under section 43 or to comply with any notice duly given to him under section 42, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to two thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to one hundred rupees for every day, after the first, during which such failure continues.

(2) If any person, who furnishes or is required to furnish any particulars, documents or any information—

(a) makes any statement or furnishes any document which he knows or has reason to believe to be false in any material particular; or

(b) omits to state any material fact knowing it to be material; or

(c) wilfully alters, suppresses or destroys any document which is required to be furnished as aforesaid,

he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both.

**50. Penalty for offences in relation to orders under the Act.**—If any person contravenes any order made under section 13 or section 31 or section 37, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five thousand rupees, or with both, and where the offence is a continuing one, with a further fine which may extend to five hundred rupees for every day, after the first, during which such contravention continues.

**51. Penalty for offences in relation to re-sale price maintenance.**—If any person contravenes the provisions of section 39 or section 40, he shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five thousand rupees, or with both.

**52. Penalty for wrongful disclosure of information.**—If any person discloses an information in contravention of section 60, he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

**53. Offences by companies.**—(1) Where an offence under this Act has been committed by a company, every person who, at the time the offence was committed, was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.



**Explanation.**—For the purposes of this section—

- (a) "company" means a body corporate and includes a firm or other association of individuals; and
- (b) "director" in relation to a firm, means a partner in the firm.

## CHAPTER IX

### MISCELLANEOUS

**54. Power of Central Government to impose conditions, limitations and restrictions on approvals, etc., given under the Act.**—The Central Government may, while—

- (a) according any approval, sanction, permission, confirmation or recognition, or
  - (b) giving any direction or issuing any order, or
  - (c) granting any exemption,
- under this Act in relation to any matter, impose such conditions, limitations or restrictions as it may think fit.

(2) The Central Government shall have the power to modify any scheme of finance submitted to it under this Act in such manner as it thinks fit.

(3) If any condition, limitation or restriction imposed by the Central Government under sub-section (1) or any term of a scheme of finance, as modified under sub-section (2), is contravened, the Central Government may rescind or withdraw the approval, sanction, permission, confirmation, recognition, direction, order or exemption made, or granted by it.

**55. Appeals.**—Any person aggrieved by any order made by the Central Government under Chapter III or Chapter IV, or, as the case may be, or the Commission under section 13 or section 37, may, within sixty days from the date of the order, prefer an appeal to the Supreme Court on one or more of the grounds specified in section 100 of the Code of Civil Procedure, 1908 (5 of 1908).

**56. Jurisdiction of courts to try offences.**—No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

**57. Cognizance of offences.**—No court shall take cognizance of any offence punishable under this Act except on a report in writing of the facts constituting such offence made by a person who is a public servant as defined in section 21 of the Indian Penal Code (45 of 1860).

**58. Magistrates, power to impose enhanced penalties.**—Notwithstanding anything contained in section 32 of the Code of Criminal Procedure, 1898 (5 of 1898), it shall be lawful for any Presidency Magistrate or any Magistrate of the first class to pass any sentence authorised by this Act in excess of his powers under section 32 of the said Code.

**59. Protection regarding statements made to the Commission.**—No statement made by a person in the

course of giving evidence before the Commission shall subject him to, or be used against him in, any civil or criminal proceeding except a prosecution for giving false evidence by such statements:

Provided that the statement—

- (a) is made in respect to a question which he is required by the Commission to answer; and
- (b) is relevant to the subject matter of the inquiry.

**60. Restriction on disclosure of information.**—(1) No information relating to any undertaking being an information which has been obtained by or on behalf of the Commission for the purposes of this Act, shall, without the previous permission in writing of the owner for the time being of the undertaking, be disclosed otherwise than in compliance with or for the purposes of this Act.

(2) Nothing contained in sub-section (1) shall apply to a disclosure of an information made for the purpose of any legal proceeding pursuant to this Act or of any criminal proceeding which may be taken, whether pursuant to this Act or otherwise, or for the purposes of any report relating to any such proceeding.

**61. Power of the Central Government to require the Commission to submit a report.**—The Central Government may at any time require the Commission to submit to it a report on the general effect on the public interest of such trade practices as, in the opinion of that Government, either constitute or contribute to monopolistic or restrictive trade practices or concentration of economic power to the common detriment.

**62. Reports of the Commission to be placed before Parliament.**—The Central Government shall cause to be laid before both Houses of Parliament an annual report and every report which may be substituted to it by the Commission from time to time, pertaining to the execution of the provisions of this Act.

**63. Members, etc., to be public servants.**—Every member of the Commission, the Director and the Registrar, and every member of the staff of the Commission and of the Director and the Registrar, shall be deemed, while acting or purporting to act in pursuance of any of the provisions of this Act, to be public servants within the meaning of section 21 of the Indian Penal Code (45 of 1860).

**64. Protection of action taken in good faith.**—(1) No suit, prosecution or other legal proceedings shall lie against the Commission or any member, officer or servants of the Commission, the Director, the Registrar or any member of the staff of the Director or the Registrar in respect of anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be maintainable in any civil court against the Central Government or any officer or employee of that Government for any damage caused by anything done under, or in pursuance of any provisions of, this Act.

**65. Inspection of, and extracts from, the register.**—(1) The register, other than the special section, shall be open to public inspection during such hours and subject to the payment of such fees, not exceeding rupees twenty-five, as may be prescribed.

(2) Any person may upon the payment of such fee, not exceeding rupee one, for every one hundred words as may be prescribed, require the Registrar to supply to him a copy of, or extract from, any particulars entered or filed in the register other than the special section, certified by the Registrar to be a true copy or extract.

(3) A copy of, or extract from, any document entered or filed in the register certified under the hand of the Registrar or any officer authorised to act in this behalf shall, in all legal proceedings, be admissible in evidence as of equal validity with the original.

66. *Power to make regulations.*—(1) The Commission may make regulations for the efficient performance of its functions under this Act.

(2) In particular, and without prejudice to the generality of the foregoing provisions, such regulations may provide for all or any of the following matters, namely:—

- (a) the conditions of service, as approved by the Central Government, of persons appointed by the Commission;
- (b) the issue of the processes to Government and to other persons and the manner in which they may be served;
- (c) the manner in which the special section of the register shall be maintained and the particulars to be entered or filed therein;
- (d) the duties and functions of the Registrar and the Director;
- (e) the payment of costs of any proceedings before the Commission by the parties concerned and the general procedure and conduct of the business of the Commission;
- (f) any other matter for which regulation are required to be, or may be, made under this Act.

67. *Power to make rules.*—(1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

- (a) the form and manner in which notices may be given or application may be made to it under this Act and the fees payable therefor;
- (b) the particulars to be furnished under this Act and the form and manner in which and the intervals within which they may be furnished;
- (c) the conditions of service of members of the Commission and the Registrar;
- (d) the places and the manner in which the register shall be maintained by the Registrar and the particulars to be entered therein;
- (e) the fees payable for inspection of the register and for obtaining certified copies of particulars from the register;
- (f) the travelling and other expenses payable to persons summoned by the Commission to appear before it;
- (g) the criterion to be adopted for determining the circumstances in which conditions or matters enumerated in section 21, 23 and 25 shall be considered to exist;
- (h) any other matter which is required to be, or may be, prescribed.

(3) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and if, before the expiry of the session in which it is so laid or the session immediately following, both Houses

agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

Assented to on 29th December, 1969

## THE ASSAM REORGANISATION (MEGHALAYA) ACT, 1969

(ACT No. 55 OF 1969)

AN

ACT

*to provide for the formation within the State of Assam of an autonomous State to be known as Meghalaya and for matters connected therewith.*

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

### PART I

#### PRELIMINARY

1. *Short title and commencement.*—(1) This Act may be called the Assam Reorganisation (Meghalaya) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint:

Provided that different dates may be appointed for different provisions of this Act.

2. *Definitions.*—In this Act, unless the context otherwise requires,—

- (a) “appointed day” means such date as the Central Government may, by notification in the Official Gazette, appoint for the formation of the autonomous State;
- (b) “article” means an article of the Constitution;
- (c) “autonomous State” means the autonomous State of Meghalaya formed under section 3;
- (d) “constituency” means a territorial constituency provided by order made under section 12 for the purpose of election to the Legislative Assembly;
- (e) “Election Commission” means the Election Commission appointed by the President under article 324;
- (f) “Governor” means the Governor of Assam exercising his functions as Governor in relation to Meghalaya by virtue of this Act;
- (g) “law” includes any enactment, Ordinance, regulation, order, bye-law, rule, scheme, notification or other instrument, having immediately before the appointed day, the force of law in the whole or in any part of the autonomous State;
- (h) “Legislative Assembly” means the Legislative Assembly of Meghalaya;
- (i) “Meghalaya” means the autonomous State referred to in section 3;
- (j) “member” means a member of the Legislative Assembly;
- (k) “Official Gazette” means the Official Gazette of Meghalaya or the Gazette of India; and

(k) "prescribed" means prescribed by rules made under this Act.

## PART II

### FORMATION OF THE AUTONOMOUS STATE OF MEGHALAYA

3. *Formation of Meghalaya.*—(1) On and from the appointed day, there shall be formed within the State of Assam an autonomous State to be known as Meghalaya which shall, subject to the provisions of sub-section (2), comprise the following tribal areas, namely:—

(i) The United Khasi-Jaintia Hills District as described in sub-paragraph (2) of paragraph 20 of the Sixth Schedule to the Constitution (exclusive of the proviso thereto) but excluding the areas transferred to the Mikir Hills autonomous district by the notification of the Government of Assam No. TAD/R/31/50/149 dated the 13th April, 1951, and

(ii) the Garo Hills District specified in Part A of the table appended in paragraph 20 aforesaid.

(2) If, before such date as the Central Government may, by notification in the Official Gazette, fix for the purpose not being a date later than the appointed day, the District Council for the autonomous district of the North Cachar Hills or the Mikir Hills or both, as the case may be, has or have resolution passed by a majority of not less than two-third of the members thereof, expressed a desire that the said autonomous district or districts shall form part of Meghalaya, the President may, by order, make a declaration to that effect and accordingly, on and from the appointed day, the North Cachar Hills District or the Mikir Hills District or both, as the case may be, shall also form part of Meghalaya.

4. *Executive power of Meghalaya.*—(1) The Executive power of Meghalaya shall be vested in the Governor and shall be exercised by him either directly or through officers subordinate to him in accordance with this Act.

(2) Nothing in this section shall—

(a) be deemed to transfer to the Governor any functions conferred by any existing law on any other authority; or

(b) prevent Parliament or the Legislature of the State of Assam or Meghalaya from conferring by law functions on any authority subordinate to the Governor.

5. *Extent of executive power of Meghalaya.*—(1) Subject to the provisions of this Act, the executive power of Meghalaya shall extend to the matters with respect to which the Legislature of Meghalaya has power to make laws:

Provided that in any matter with respect to which the Legislature of Meghalaya, the Legislature of the State of Assam and Parliament have power to make laws, the executive power of Meghalaya shall be subject to, and limited by, the executive power expressly conferred by this Act or by any law made by Parliament upon the Union or the State of Assam or the authorities thereof or, as the case may be, by the Legislature of the State of Assam upon the State of Assam or authorities thereof.

(2) On and from the appointed day, the executive power of the State of Assam shall not extend, in relation to Meghalaya, to the matters with respect to which the Legislature of Meghalaya has exclusive power to make laws under this Act.

(3) For the removal of doubts, it is hereby declared that, save as otherwise provided in this Act, the executive power of the State of Assam shall, in relation to Meghalaya, continue to extend to the matters with respect to which the Legislature of Meghalaya has no power to make laws.

6. *Council of Ministers.*—(1) There shall be a Council of Ministers with the Chief Minister at the head to aid and advise the Governor in the exercise of his functions in relation to Meghalaya.

(2) The question whether any, and if so, what, advice was tendered by Ministers to the Governor shall not be inquired into in any court.

7. *Other provisions as to Ministers.*—(1) The Chief Minister shall be appointed by the Governor and the other Ministers shall be appointed by the Governor on the advice of the Chief Minister, and the Ministers shall hold office during the pleasure of the Governor.

(2) The Council of Ministers shall be collectively responsible to the Legislative Assembly.

(3) Before a Minister enters upon his office, the Governor shall administer to him the oaths of office and of secrecy according to the form set out for this purpose in the First Schedule.

(4) A Minister who for any period of six consecutive months is not a member of the Legislative Assembly shall at the expiration of that period cease to be a Minister.

(5) The salaries and allowances of Ministers shall be such as the Legislature of Meghalaya may from time to time by law determine and, until the Legislature so determines, shall be determined by the Governor.

8. *Advocate General for Meghalaya.*—(1) The Governor may, if he thinks fit to do so, appoint a person who is qualified to be appointed a Judge of a High Court to be Advocate-General for Meghalaya.

(2) It shall be the duty of the Advocate-General to give advice to the Government of Meghalaya upon such legal matters, and to perform such other duties of a legal character as may, from time to time, be referred or assigned to him by the Governor, and to discharge the functions conferred on him by or under this Act or any other law for the time being in force.

(3) The Advocate-General shall hold office during the pleasure of the Governor, and shall receive such remuneration as the Governor may determine.

9. *Conduct of business.*—(1) All executive action of the Government of Meghalaya shall be expressed to be taken in the name of the Governor.

(2) Orders and other instruments made and executed in the name of the Governor shall be authenticated in such manner as may be specified in rules to be made by the Governor, and the validity of an order or instrument which is so authenticated shall not be called in question on the ground that it is not an order or instrument made or executed by the Governor.

(3) The Governor shall make rules for the more convenient transaction of the business of the Government of Meghalaya and for the allocation among Ministers of the said business.

10. *Duties of Chief Minister as respects the furnishing of information to Governor, etc.*—It shall be the duty of the Chief Minister of Meghalaya—



- (a) to communicate to the Governor all decisions of the Council of Ministers relating to the administration of the affairs of Meghalaya and proposals for legislation;
- (b) to furnish such information relating to the administration of the affairs of Meghalaya and proposals for legislation as the Governor may call for; and
- (c) if the Governor so requires, to submit for the consideration of the Council of Ministers any matter on which a decision has been taken by a Minister but which has not been considered by the Council.

### PART III

#### THE LEGISLATURE

##### General

11. *Constitution of the Legislature of Meghalaya.*—(1) There shall be a Legislature for Meghalaya which shall consist of the Governor and the Legislative Assembly.

(2) The total number of seat in the Legislative Assembly to be filled by persons chosen by direct election from constituencies in Meghalaya shall be fixed by the Central Government by notification in the Official Gazette after consultation with the Election Commission, but shall not be less than thirty-five or more than fifty-five.

(3) The Governor may, if he is of opinion that any minority communities in Meghalaya need representation in the Legislative Assembly and are not adequately represented therein, nominate not more than three members of such communities, not being persons in the service of the Government, to the Legislative Assembly.

12. *Delimitation of constituencies.*—(1) The Election Commission shall, in the manner herein provided, distribute the total number of seats in the Legislative Assembly as fixed under sub-section (2) of section 11 to single member constituencies and delimit them on the basis of the latest census figures having regard to the following provisions, namely:—

- (a) all constituencies shall, as far as practicable, consist of geographically compact areas, and in delimiting them, regard shall be had to the physical features, existing boundaries of administrative units, facilities of communication and public convenience;
- (b) every constituency shall be so delimited as to fall only within an Assembly constituency of the Legislative Assembly of the State of Assam;
- (c) the population of each constituency shall, as far as practicable, be the same throughout Meghalaya.

(2) For the purpose of assisting the Election Commission in the performance of its functions under this section, the Commission shall associate with itself such number of associate members not exceeding five as the Governor may nominate to represent Meghalaya:

Provided that none of the associate members shall have a right to vote or to sign any decision of the Election Commission.

(3) If owing to death or resignation, the office of an associate member falls vacant, it shall be filled as soon as may be practicable by the Governor in accordance with the provisions of sub-section (2).

(4) The Election Commission shall—

- (a) publish its proposals for the delimitation of constituencies, together with the dissenting proposals,

if any, of any associate member who desires publication thereof, in the official Gazette and in such other manner as the Commission may consider fit, together with a notice inviting objections and suggestions in relation to the proposals and specifying a date on or after which the proposals will be further considered by it;

- (b) consider all objections and suggestions which may have been received by it before the date so specified, and for the purpose of such consideration hold one or more public sittings at such place or places as it may think fit;

(c) after considering all objections and suggestions which may have been received by it before the date so specified, determine by one or more orders the delimitation of constituencies and cause such order or orders to be published in the Official Gazette; and upon such publication, the order or orders shall have the full force of law and shall not be called in question in any court.

(5) As soon as may be after such publication, every order shall be laid before the Legislative Assembly.

(6) Upon the completion of each census, the total number of seats in the Legislative Assembly and the division of Meghalaya into territorial constituencies shall be readjusted by such authority and in such manner as Parliament may by law determine:

Provided that such readjustment shall not affect representation in the Legislative Assembly until the dissolution of the then existing Assembly.

*Explanation.*—In this section "latest census figures" means the census figures with respect to Meghalaya ascertainable from the latest census of which the final published figures are available.

13. *Power of Election Commission to maintain delimitation orders up-to-date.*—(1) The Election Commission may, from time to time, by notification in the Official Gazette,—

- (a) correct any printing mistake in any order made under section 12 or any error arising therein from inadvertent slip or omission;

- (b) where the boundaries or name of any territorial division mentioned in any such order are or is altered, make such amendments as appear to it to be necessary or expedient for bringing such order up-to-date.

(2) Every notification under this section shall be laid as soon as may be after it is issued before the Legislative Assembly.

14. *Electors and electoral rolls.*—(1) The persons entitled to vote at an election of members shall be the persons entitled by virtue of the provisions of the Constitution and the Representation of the People Act, 1950 (43 of 1950) to be registered as voters at elections to the House of the People.

(2) The electoral roll for every constituency shall consist of so much of the electoral roll for an Assembly constituency of the Legislative Assembly of the State of Assam as relates to the areas comprised within each such constituency and it shall not be necessary to prepare or revise separately the electoral roll for any such constituency.

15. *Right to vote.*—Every person, whose name is for the time being entered in the electoral roll for a constituency shall be entitled to vote at the election of a member from that constituency.

**16. Qualification for membership.**—A person shall not be qualified to be chosen to fill a seat in the Legislative Assembly unless he—

- (a) is a citizen of India and makes and subscribes before some person authorised in that behalf by the Election Commission an oath or affirmation according to the form set out for the purpose in the First Schedule;
- (b) is not less than twenty-five years of age; and
- (c) is an elector in any constituency in Meghalaya.

**17. Election to the Legislative Assembly.**—The Provisions of Part I, Chapter III and IV of Part II and Parts III to XI of the Representation of the People Act, 1951, (43 of 1951), and of any rules and orders made thereunder for the time being in force, shall apply to and in relation to the elections to the Legislative Assembly of Meghalaya as they apply to and in relation to an election to the Legislative Assembly of a State, subject to such modifications as the President may, after consultation with the Election Commission, by order, direct.

**18. Duration of Legislative Assembly.**—The Legislative Assembly, unless sooner dissolved, shall continue for five years from the date appointed for its first meeting and no longer, and the expiration of the said period of five years shall operate as a dissolution of the Legislative Assembly:

Provided that the said period may, while a Proclamation of Emergency issued under clause (1) of Article 352 is in operation, be extended by Parliament by law for a period not exceeding one year at a time and not extending in any case beyond a period of six months after the Proclamation has ceased to operate.

**19. Sessions of Legislative Assembly, prorogation and dissolution.**—(1) The Governor shall, from time to time, summon the Legislative Assembly to meet at such time and place as he thinks fit, but six months shall not intervene between its last sitting in one session and the date appointed for its first sitting in the next session. -

(2) The Governor may, from time to time,—

- (a) prorogue the Legislative Assembly;
- (b) dissolve the Legislative Assembly.

**20. Right to Governor of address and send messages to Legislative Assembly.**—(1) The Governor may address the Legislative Assembly and may for that purpose require the attendance of members.

(2) The Governor may send message to the Legislative Assembly, whether with respect to a Bill then pending in the Legislative Assembly or otherwise and when a message is so sent, the Legislative Assembly shall with all convenient despatch consider any matter required by the message to be taken into consideration.

**21. Special address by the Governor.**—(1) At the commencement of the first session after each general election to the Legislative Assembly and at the commencement of the first session of each year, the Governor shall address the Legislative Assembly and inform the Assembly of the causes of its summons.

(2) Provision shall be made by the rules regulating the procedure of the Legislative Assembly for the allotment of time for discussion of the matters referred to in such address.

**22. Rights of Ministers as respects Legislative Assembly.**—Every Minister and the Advocate-General for Meghalaya shall have the right to speak in, and otherwise to take part in the proceedings of the Legislative Assembly,

and to speak in and otherwise to take part in the proceedings of, any committee of the Legislative Assembly of which he may be named a member, but shall not, by virtue of this section, be entitled to vote.

### Officers of the Legislative Assembly

**23. Speaker and Deputy Speaker of Legislative Assembly.**—(1) The Legislative Assembly shall, as soon as may be, choose two members of the Assembly to be respectively Speaker and Deputy Speaker thereof, and, so often as the office of Speaker or Deputy Speaker becomes vacant, the Assembly shall choose another member to be Speaker or Deputy Speaker, as the case may be.

(2) A member holding office as Speaker or Deputy Speaker of the Legislative Assembly—

- (a) shall vacate his office if he ceases to be a member of the Assembly;
- (b) may at any time by writing under his hand addressed, if such member is the Speaker, to the Deputy Speaker, and if such member is the Deputy Speaker to the Speaker, resign his office; and
- (c) may be removed from his office by a resolution of the Legislative Assembly passed by a majority of all the then members of the Assembly:

Provided that no resolution for the purpose of clause (c) shall be moved unless at least fourteen days' notice has been given of the intention to move the resolution:

Provided further that whenever the Legislative Assembly is dissolved, the Speaker shall not vacate his office until immediately before the first meeting of the Assembly after the dissolution.

(3) While the office of Speaker is vacant, the duties of the office shall be performed by the Deputy Speaker or, if the office of Deputy Speaker is also vacant, by such member of the Legislative Assembly as the Governor may appoint for the purpose.

(4) During the absence of the Speaker from any sitting of the Legislative Assembly, the Deputy Speaker or, if he is also absent, such person as may be determined by the rules of procedure of the Legislative Assembly, or, if no such person is present, such other person as may be determined by the Legislative Assembly, shall act as Speaker.

(5) There shall be paid to the Speaker and the Deputy Speaker of the Legislative Assembly such salaries and allowances as may be respectively fixed by the Legislature of Meghalaya by law and, until provision in that behalf is so made, such salaries and allowances as the Governor may, by order, determine.

**24. Speaker and Deputy Speaker not to preside while a resolution for his removal from office is under consideration.**—(1) At any sitting of the Legislative Assembly, while any resolution for the removal of the Speaker from his office is under consideration, the Speaker, or, while any resolution for the removal of the Deputy Speaker from his office is under consideration, the Deputy Speaker shall not, though he is present, preside, and the provisions of sub-section (4) of section 23 shall apply in relation to every such sitting as they apply in relation to a sitting from which the Speaker or, as the case may be, the Deputy Speaker is absent.

(2) The Speaker shall have the right to speak in, and otherwise to take part in the proceedings of the Legislative Assembly while any resolution for his removal from office is under consideration in the Legislative Assembly and shall, notwithstanding anything in section

27. be entitled to vote only in the first instance on such resolution or on any other matter during such proceedings but not in the case of an equality of votes.

**25. Secretariat of Legislative Assembly.**—(1) The Legislative Assembly shall have a separate secretariat staff.

(2) The Legislature of Meghalaya may by law regulate the recruitment, and the conditions of service of persons appointed, to the secretariat staff of the Legislative Assembly.

(3) Until provision is made by the Legislature of Meghalaya under sub-section (2), the Governor may, after consultation with the Speaker of the Legislative Assembly, make rules regulating the recruitment, and the conditions of service of persons appointed, to the secretarial staff of the Legislative Assembly, and any rules so made shall have effect subject to the provisions of any law made under the said sub-section.

#### Conduct of business

**26. Oath or affirmation by members.**—Every member of the Legislative Assembly, shall, before taking his seat, make and subscribe before the Governor, or some person appointed in that behalf by him, an oath or affirmation according to the form set out for the purpose in the First Schedule.

**27. Voting in Assembly, power of Assembly to act notwithstanding vacancies and quorum.**—(1) Save as otherwise provided in this Act, all questions at any sitting of the Legislative Assembly shall be determined by a majority of votes of the members present and voting other than the Speaker or person acting as such.

(2) The Speaker or person acting as such shall not vote in the first instance, but shall have and exercise a casting vote in the case of an equality of votes.

(3) The Legislative Assembly shall have power to act notwithstanding any vacancy in the membership thereof, and any proceedings in the Legislative Assembly shall be valid notwithstanding that it is discovered subsequently that some person who was not entitled so to do sat or voted or otherwise took part in the proceedings.

(4) Until the Legislature of Meghalaya by law otherwise provides, the quorum to constitute a meeting of the Legislative Assembly shall be ten members.

(5) If at any time during a meeting of the Legislative Assembly there is a quorum, it shall be the duty of the Speaker or person acting as such either to adjourn the Assembly or suspend the meeting until there is a quorum.

#### Disqualifications of members

**28. Vacation of seats.**—(1) No person shall be member of Parliament or of the Legislative Assembly of the State of Assam and also of the Legislative Assembly of Meghalaya, and if a person is chosen a member of Parliament or of the Legislative Assembly of Assam and also of the Legislative Assembly of Meghalaya, then, at the expiration of such period, as may be specified in rules made by the President, that person's seat in Parliament or, as the case may be, in the Legislative Assembly of Assam shall become vacant unless he has previously resigned his seat in the Legislative Assembly of Meghalaya.

(2) If a member of the Legislative Assembly—

(a) becomes subject to any of the disqualifications mentioned in section 29, or

(b) resigns his seat by writing under his hand addressed to the Speaker,

his seat shall thereupon become vacant.

(3) If for a period of sixty days a member of the Legislative Assembly is, without permission of the Legislative Assembly, absent from all meetings thereof, the Assembly may declare his seat vacant:

Provided that in computing the said period of sixty days no account shall be taken of any period during which the Legislative Assembly is prorogued or is adjourned for more than four consecutive days.

**29. Disqualifications for membership.**—(1) A person shall be disqualified for being chosen as, and for being a member of the Legislative Assembly,—

(a) if he holds any office of profit under the Government of India or the Government of any State or the Government of Meghalaya other than an office declared by the Legislature of Meghalaya by law not to disqualify its holder; or

(b) if he is of unsound mind and stands so declared by a competent court;

(c) if he is an undischarged insolvent;

(d) if he is not a citizen of India, or has voluntarily acquired the citizenship of a foreign State or is under any acknowledgment of allegiance or adherence to a foreign State;

(e) if he is so disqualified by or under any of the provisions of Chapter III of Part II of the Representation of the People Act, 1951 (43 of 1951), as applied to and in relation to the Legislative Assembly by section 17.

(2) For the purposes of this section, a person shall not be deemed to hold an office of profit under the Government of India or the Government of any State or the Government of Meghalaya by reason only, that he is a Minister either for the Union or for such State or for Meghalaya.

(3) If any question arises as to whether a member has become disqualified for being such a member under the provisions of sub-section (1), the question shall be referred for the decision of the Governor and his decision shall be final.

(4) Before giving any decision on any such question, the Governor shall obtain the opinion of the Election Commission and shall act according to such opinion.

**30. Penalty for sitting and voting before making an oath or affirmation or when not qualified or when disqualified.**—If a person sits or votes as a member of the Legislative Assembly before he has complied with the requirements of section 26, or when he knows that he is not qualified or that he is disqualified for membership thereof, or that he is prohibited from so doing by the provisions of any law made by Parliament or the Legislature of Meghalaya, he shall be liable in respect of each day on which he so sits or votes to a penalty of five hundred rupees to be recovered as a debt due to Meghalaya.

**31. Powers, privileges, etc., of members.**—(1) Subject to the provisions of this Act and to the rules and standing orders regulating the procedure of the Legislature of Meghalaya, there shall be freedom of speech in the Legislative Assembly of Meghalaya.

(2) No member of the Legislative Assembly of Meghalaya shall be liable to any proceedings in any court in respect of anything said or any vote given by him in the Assembly or any committee thereof, and no person shall be so liable in respect of the publication by or under the authority of the Assembly of any report, paper, votes or proceedings.

(3) In other respects, the powers, privileges and immunities of the Legislative Assembly and of the members and the committees thereof shall be such as may from time to time be defined by the Legislature of Meghalaya by law, and until so defined, shall be those for the time being enjoyed by the House of the People and its members and committees.

(4) The provisions of sub-sections (1), (2) and (3) shall apply in relation to persons who by virtue of this Act have the right to speak in, or otherwise take part in the proceedings of, the Legislative Assembly or any committee thereof as they apply in relation to members of that Assembly.

**32. Salaries and allowances of the members.**—Members of the Legislative Assembly shall be entitled to receive such salaries and allowances as may from time to time be determined by the Legislature of Meghalaya by law and, until provision in that respect is so made, such salaries and allowances as the Governor may, by order, determine.

#### *Legislative powers and procedure*

**33. Extent of Legislative Power.**—(1) Subject to the provisions of this Act, the Legislature of Meghalaya has exclusive power to make law for Meghalaya or any part thereof with respect to any of the matters enumerated in Part A or Part B of the Second Schedule:

Provided that the exclusive power of the Legislature of Meghalaya to make laws in so far as it relates to that part of the area comprised within the municipality of Shillong as immediately before the commencement of the constitution formed part of the Khasi State of Myllem, shall extend only to matters with respect to which the District Council having authority in that area has power to make laws (in whatever form it may be) immediately before the appointed day in exercise of any of the powers conferred by the Sixth Schedule to the Constitution.

(2) Subject to the provisions of this Act, the Legislature of Meghalaya and the Legislature of the State of Assam also shall have power to make laws for Meghalaya or any part thereof with respect to any of the matters enumerated in Part C of the Second Schedule:

Provided that the power of the Legislature of Meghalaya to make any such law shall not extend to the area comprised within the municipality of Shillong which immediately before the commencement of the Constitution formed part of the Khasi State of Myllem.

(3) For the removal of doubts it is hereby declared that nothing in sub-section (1) or sub-section (2) shall derogate from the powers conferred by the Constitution—

(a) on Parliament to make laws for the whole or any part of the State of Assam, including Meghalaya with respect to any of the matters enumerated in the Second Schedule; or

(b) on the Legislature of the State of Assam to make laws for the whole or any part of Assam, including Meghalaya, with respect to any of the matters enumerated in List II or List III in the Seventh Schedule to the Constitution, except in so far as any of the matters aforesaid falls within sub-section (1).

**34. Exemption from taxation of properties of the Union and the State of Assam and of certain vehicles registered in Assam or Meghalaya.**—(1) The property of the Union shall, save in so far as Parliament may, by law, otherwise provide, be exempt from all taxes imposed by Meghalaya or by any authority within Meghalaya.

(2) Nothing in sub-section (1) shall, until Parliament by law otherwise provides, prevent any authority within Meghalaya from levying any tax on any property of the Union to which such property was immediately before the commencement of this Act liable or treated as liable so long as that tax continue to be levied in Meghalaya.

(3) The property of the State of Assam shall, so long as the property of Meghalaya in the rest of Assam is exempt from taxes imposed by the Government of Assam or by any authority within the State of Assam, be exempt from all taxes imposed by Meghalaya or by any authority within Meghalaya.

(4) No vehicle registered at any place in the State of Assam, not being a place in Meghalaya, and transiting through Meghalaya shall be liable to any tax under any law enacted by the Legislature of Meghalaya so long as any vehicle registered at any place in Meghalaya and transiting through the territory of Assam (not comprised in Meghalaya) is exempt from payment of any tax under any law enacted by the Legislature of the State of Assam.

**35. Inconsistency between laws made by Parliament and laws made by the Legislature of Meghalaya.**—(1) If a provision of a law made by the Legislature of Meghalaya is repugnant to any provision of a law made by Parliament which Parliament is competent to enact, or to any provision of any existing law with respect to one of the matters enumerated in the Concurrent List in the Seventh Schedule to the Constitution, then subject to the provisions of sub-section (2), the law made by Parliament, whether passed before or after the law made by the Legislature of Meghalaya, or, as the case may be, the existing law shall prevail and the law made by the Legislature of Meghalaya shall, to the extent of the repugnancy, be void.

(2) Where a law made by the Legislature of Meghalaya with respect to one of the matters enumerated in the Concurrent List in the Seventh Schedule to the Constitution, which the Legislature of Meghalaya is competent to enact under this Act contains any provision repugnant to the provisions of an earlier law made by Parliament or an existing law with respect to that matter, then the law so made by the Legislature of Meghalaya shall, if it has been reserved for the consideration of the Presidents and has received his assent, prevail in Meghalaya:

Provided that nothing in this sub-section shall prevent Parliament from enacting at any time any law with respect to the same matter, including a law adding to, amending, varying or repealing the law so made by the Legislature of Meghalaya.

**36. Inconsistency between laws made by the Legislature of the State of Assam and laws made by the Legislature of Meghalaya.**—Where a law made by the Legislature of Meghalaya with respect to one of the matters enumerated in Part C of the Second Schedule contains any provision repugnant to the provision of an earlier law made by the Legislature of the State of Assam which that Legislature is competent to enact, or to any provision of any existing law with respect to that matter, then the law so made by the Legislature of Meghalaya shall to the extent of the repugnancy, be void unless the law has received assent under section 39 after the Governor has obtained the advice of the Chief Minister of Assam:

Provided that nothing contained in this section shall prevent the Legislature of the State of Assam from enacting at any time any law with respect to the same matter including a law adding to, amending, varying or repealing the law so made by the Legislature of Meghalaya.



*Explanation 1.*—In this section and in section 35 and 59, “existing law” means any law, Ordinance, order, bye-law, rule or regulation passed or made before the appointed day by any Legislature, authority or person having power to make such a law, Ordinance, order, bye-law, rule or regulation.

*Explanation 2.* In this section and in sections 39 and 50, the reference to the advice of the Chief Minister of Assam shall, while a Proclamation issued in relation to the State of Assam under clause (1) of Article 356 of the Constitution is in operation, be construed as a reference to the instructions from the President.

**37. Special provisions as to financial Bills.**—(1) A Bill or amendment shall not be introduced into, or moved in, the Legislative Assembly except on the recommendation of the Governor if such Bill or amendment makes provisions dealing with any of the following matters, namely:

- (a) the imposition, abolition, remission, alteration or regulation of any tax;
- (b) the regulation of the borrowing of money or the giving of any guarantee by Meghalaya, or the amendment of the law with respect to any financial obligations undertaken or to be undertaken by Meghalaya;
- (c) the custody of the Consolidated Fund or the Contingency Fund of Meghalaya, the payment of moneys into, or withdrawal of moneys from any such Fund;
- (d) the appropriation of moneys out of the Consolidated Fund of Meghalaya;
- (e) the declaring of any expenditure to be expenditure charged on the Consolidated Fund of Meghalaya, or the increasing of the amount of any such expenditure;
- (f) the receipt of money on account of the Consolidated Fund of Meghalaya or the public account of Meghalaya or the custody or issue of such money;

Provided that no recommendation shall be required under this sub-section for the moving of an amendment making provision for the reduction or abolition of any tax.

(2) A Bill or amendment shall not be deemed to make provision for any of the matters specified in sub-section (1) by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

(3) A Bill, which, if enacted and brought into operation, would involve expenditure from the Consolidated Fund of Meghalaya, shall not be passed by the Legislative Assembly unless the Governor has recommended to the Assembly the consideration of the Bill.

**38. Procedure as to lapsing of Bills.**—A Bill pending in the Legislative Assembly shall not lapse by reason of the prorogation of the Assembly, but shall lapse on a dissolution thereof.

**39. Assent to Bills.**—When a Bill has been passed by the Legislative Assembly, it shall be presented to the Governor and the Governor shall declare either that he assents to the Bill or that he withholds assent therefrom or that he reserves the Bill for the consideration of the President:

Provided that the Governor may, as soon as possible after the presentation to him of the Bill for assent, return the Bill if it is not a Money Bill together with a message requesting that the Legislative Assembly will reconsider the Bill or any specified provisions thereof and, in particular, will consider the desirability of introducing any such amendments as he may recommend in his message and when a Bill is so returned, the Legislative Assembly shall reconsider the Bill accordingly, and if the Bill is passed again by the Assembly with or without amendment and presented to the Governor for assent, the Governor shall not—

- (a) give assent in the case of a Bill containing provisions of the nature referred to in section 36 except after obtaining the advice of the Chief Minister of Assam;
- (b) withhold assent in the case of any other Bill.

*Explanation.*—For the purposes of this section and section 40, a Bill shall be deemed to be a Money Bill if it contains only provisions dealing with all or any of the matters specified in sub-section (1) of section 37 or any matter incidental to any of those matters and there is endorsed thereon the certificate of the Speaker of the Legislative Assembly signed by him that it is a Money Bill:

Provided that a Bill shall not be deemed to be a Money Bill by reason only that it provides for the imposition of fines or other pecuniary penalties, or for the demand or payment of fees for licences or fees for services rendered or by reason that it provides for the imposition, abolition, remission, alteration or regulation of any tax by any local authority or body for local purposes.

**40. Bills reserved for consideration.**—When a Bill is reserved by the Governor for the consideration of the President, the President shall declare either that he assents to the Bill or that he withhold assent therefrom:

Provided that where the Bill is not a Money Bill, the President may direct the Governor to return the Bill to the Legislative Assembly together with such a message as is referred to in section 39, and when a Bill is so returned, the Legislative Assembly shall reconsider it accordingly within a period of six months from the date of receipt of such message, and if it is again passed by the Legislative Assembly with or without amendment, it shall be presented again to the President for his consideration.

**41. Requirements as to sanction and recommendation to be regarded as matters of procedure only.**—No Act of the Legislature of Meghalaya and no provision in any such Act shall be invalid by reason only that some recommendation or previous sanction required by the Constitution or this Act was not given, if assent to that Act was given—

- (a) where the recommendation required was that of the Governor, either by the Governor or by the President;
- (b) where the recommendation or previous sanction required was that of the President, by the President.

#### *Proceure in financial matters*

**42. Annual financial statement.**—(1) The Governor shall in respect of every financial year cause to be laid before the Legislative Assembly a statement of the estimated receipts and expenditure of Meghalaya for that year, hereinafter referred to as “the annual financial statement”.

(2) The estimates of expenditure embodied in the annual financial statement shall show separately—

- (a) the sums required to meet expenditure described by this Act as expenditure charged upon the Consolidated Fund of Meghalaya; and
- (b) the sums required to meet other expenditure proposed to be made from the Consolidated Fund of Meghalaya,

and shall distinguish expenditure on revenue account from other expenditure.

(3) The following expenditure shall be expenditure charged upon the Consolidated Fund of Meghalaya:—

- (a) the salaries and allowances of the Speaker and the Deputy Speaker of the Legislative Assembly;
- (b) debt charges for which the autonomous State is liable including interest, sinking fund charges and redemption charges, and other expenditure relating to the raising of loans and the service and redemption of debt;
- (c) any sums required to satisfy any judgment, decree or award of any court or arbitral tribunal; and
- (d) any other expenditure declared by the Constitution or by the Legislature of Meghalaya to be so charged.

**43. Procedure in Legislative Assembly with respect to estimates.**—(1) So much of the estimates as relates to expenditure charged upon the Consolidated Fund of Meghalaya shall not be submitted to the vote of the Legislative Assembly, but nothing in this sub-section shall be construed as preventing the discussion in the Legislative Assembly of any of those estimates.

(2) So much of the said estimates as relates to other expenditure shall be submitted in the form of demands for grants to the Legislative Assembly, and the Legislative Assembly shall have power to assent, or to refuse to assent, to any demand, or to assent to any demand subject to a reduction of the amount specified therein.

(3) No demand for a grant shall be made except on the recommendation of the Governor.

**44. Appropriation Bills.**—(1) As soon as may be after the grants under section 43 have been made by the Legislative Assembly, there shall be introduced a Bill to provide for the appropriation out of the Consolidated Fund of Meghalaya of all moneys required to meet—

- (a) the grants so made by the Legislative Assembly; and
- (b) the expenditure charged on the Consolidated Fund of Meghalaya,

but not exceeding in any case the amount shown in the statement previously laid before the Assembly.

(2) No amendment shall be proposed to any such Bill in the Legislative Assembly which will have the effect of varying the amount or altering the destination of any grant so made or of varying the amount of any expenditure charged on the Consolidated Fund of Meghalaya, and the decision of the person presiding as to whether an amendment is inadmissible under this sub-section shall be final.

(3) Subject to the provisions of section 45 and 46, no money shall be withdrawn from the Consolidated Fund of Meghalaya except under appropriation made by law passed in accordance with the provisions of this section.

**45. Supplementary, additional or excess grants.**—(1) The Governor shall,—

- (a) if the amount authorised by any law made in accordance with the provisions of section 44 to be expended for a particular service for the current financial year is found to be insufficient for the purposes of that year or when a need has arisen during the current financial year for supplementary or additional expenditure upon some new service not contemplated in the annual financial statement for that year, or
- (b) if any money has been sent on any service during a financial year in excess of the amount granted for that service and for that year,

cause to be laid before the Legislative Assembly another statement showing the estimated amount of that expenditure or cause to be presented to the Legislative Assembly a demand for such excess, as the case may be.

(2) The provisions of sections 42, 43 and 44 shall have effect in relation to any such statement and expenditure or demand and also to any law to be made authorising the appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure or the grant in respect of such demand as they have effect in relation to the annual financial statement and the expenditure mentioned therein or to a demand for a grant and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure or grant.

**46. Votes on account and exceptional grant.**—(1) Notwithstanding anything in the foregoing provisions of this Part, the Legislative Assembly shall have power—

- (a) to make any grant in advance in respect of the estimated expenditure for a part of any financial year pending the completion of the procedure prescribed in section 43 for the voting of such grant and the passing of the law in accordance with the provisions of section 44 in relation to that expenditure;

- (h) to make a grant for meeting an unexpected demand upon the resources of the autonomous State when on account of the magnitude or the indefinite character of the service the demand cannot be stated with the details ordinarily given in an annual financial statement;

- (c) to make an exceptional grant which forms no part of the current service of any financial year; and the Legislature of Meghalaya shall have power to authorise by law and withdrawal of moneys from the Consolidated Fund of Meghalaya for the purpose of which the said grants are made.

(2) The provisions of sections 43 and 44 shall have effect in relation to the making of any grant under sub-section (1) and to any law to be made under that sub-section, as they have effect in relation to the making of a grant with regard to any expenditure mentioned in the annual financial statement and the law to be made for the authorisation of appropriation of moneys out of the Consolidated Fund of Meghalaya to meet such expenditure.

#### Procedure generally

**47. Rules of procedure.**—(1) The Legislative Assembly may make rules for regulating, subject to the provisions of this Act, its procedure and the conduct of its business including the language or languages to be used in the Legislative Assembly.

(2) Until rules are made under sub-section (1), the rules of procedure and standing orders with respect to the

Legislative Assembly of the State of Assam in force immediately before the commencement of this Act shall have effect in relation to the Legislative Assembly subject to such modification and adaptations as may be made therein by the Governor.

48. *Restriction on discussion in the Legislative Assembly.*—No discussion shall take place in the Legislative Assembly with respect to the conduct of any Judge of the Supreme Court, or of a High Court, in the discharge of his duties.

49. *Courts not to enquire into the proceedings of Legislative Assembly.*—(1) The validity of any proceedings in the Legislative Assembly shall not be called in question on the ground of any alleged irregularity of procedure.

(2) No officer or member of the Legislative Assembly in whom powers are vested by or under this Act for regulating procedure or the conduct of business or for maintaining order, in the Legislative Assembly shall be subject to the jurisdiction of any court in respect of the exercise by him of those powers.

#### *Legislative power of the Governor*

50. *Power of Governor to promulgate Ordinances during recess of Legislative Assembly.*—(1) If at any time, except when the Legislative Assembly is in session, the Governor is satisfied that circumstances exist which render it necessary for him to take immediate action, he may promulgate such Ordinances as the circumstances appear to him to require:

Provided that the Governor shall not without instructions from the President promulgate any such Ordinance, if—

- (a) a Bill containing the same provisions would under the Constitution or this Act have required the previous sanction of the President for the introduction thereof into the Legislative Assembly of Meghalaya; or
- (b) he would have deemed it necessary to reserve a Bill containing the same provisions for the consideration of the President; or
- (c) an Act of the Legislature of Meghalaya containing the same provisions would under this Act have been invalid unless, having been reserved for the consideration of the President, it had received the assent of the President:

Provided further that the Governor shall not, except on the advice of the Chief Minister of Assam, promulgate any such Ordinance if with respect to a Bill containing the same provisions he would have deemed it necessary under this Act to obtain the advice of the Chief Minister before assenting thereto.

(2) An Ordinance promulgated under this section shall have the same force and effect as an Act of the Legislative Assembly assented to by the Governor, but every such Ordinance—

- (a) shall be laid before the Legislative Assembly and shall cease to operate at the expiration of six weeks from the reassembly of the Legislative Assembly or if before the expiration of that period a resolution disapproving it is passed by the Legislative Assembly, upon the passing of the resolution; and
  - (b) may be withdrawn at any time by the Governor.
- (3) If and so far as an Ordinance under this section makes any provision which could not be valid if enacted in an

Act of the Legislature of Meghalaya assented to by the Governor, it shall be void:

Provided that—

- (a) for the purposes of section 35 relating to the effect of an Act of the Legislature of Meghalaya which is repugnant to an Act of Parliament or an existing law with respect to a matter enumerated in the Concurrent List in the Seventh Schedule to the Constitution, an Ordinance promulgated under this section in pursuance of instructions from the President shall be deemed to be an Act of the Legislature which has been reserved for the consideration of the President and assented to by him;
- (b) for the purposes of section 36 relating to the effect of an Act of the Legislature of Meghalaya which is repugnant to an Act of the Legislature of the State of Assam or an existing law with respect to a matter enumerated in Part C of the Second Schedule, an Ordinance promulgated under this section on the advice of the Chief Minister of Assam shall be deemed to be an Act of the Legislature which has been assented to on the advice of the Chief Minister.

## PART IV

### FINANCIAL PROVISIONS

51. *Consolidated Fund.*—(1) Subject to the provisions of section 52, all revenue received by the Government of Meghalaya, all loans raised by that Government by the issue of treasury bills, loans or ways and means advances and all moneys received by that Government in repayment of loans shall form one Consolidated Fund to be entitled "the Consolidated Fund of Meghalaya".

(2) All other public moneys received by or on behalf of the Government of Meghalaya shall be credited to the public account of Meghalaya.

(3) No moneys out of the Consolidated Fund of Meghalaya shall be appropriated except in accordance with law and for the purposes and in the manner provided in this Act.

52. *Contingency Fund.*—The Legislature of Meghalaya may, by law, establish a Contingency Fund in the nature of an imprest to be entitled "the Contingency Fund of Meghalaya" into which shall be paid from time to time such sums as may be determined by such law, and the said Fund shall be placed at the disposal of the Governor to enable advances to be made by him out of such Fund for the purposes of meeting unforeseen expenditure pending authorisation of such expenditure by the Legislature of Meghalaya by law under section 45 or section 46.

53. *Custody of suitors' deposits and other moneys received by public servants and courts.*—All moneys received by or deposited with—

- (a) any officer employed in connection with the affairs of Meghalaya in his capacity as such, other than revenues or public moneys raised or received by the Government of Meghalaya, or
- (b) any court with Meghalaya to the credit of any cause, matter, account or persons, shall be paid into the public account of Meghalaya.

54. *Custody, etc., of Consolidated Fund, Contingency Fund and moneys credited to the public account.*—The custody of the Consolidated Fund and the Contingency Fund of Meghalaya, the payment of moneys into such



Funds, the withdrawal of moneys therefrom, the custody of public moneys other than those credited to such Funds received by or on behalf of the Government of Meghalaya, their payment into the public account of Meghalaya and the withdrawal of moneys from such account and all other matters connected with or ancillary to matters aforesaid shall be regulated by law made by the Legislature of Meghalaya, and, until provision in that behalf is so made, shall be regulated by rules made by the Governor.

55. *Certain taxes levied by Assam to be appropriated by Meghalaya.*—(1) Notwithstanding anything contained in this Act, any tax on the consumption or sale of electricity relatable to entry 53 in the State List in the Seventh Schedule to the Constitution, and any tax on the sale or purchase of goods relatable to entry 54 in the said List levied by the Government of Assam shall be collected within Meghalaya but not including any area comprised within the municipality of Shillong by the Government of Meghalaya, and the proceeds in any financial year of any such tax leviable within Meghalaya shall not form part of the Consolidated Fund of Assam, but shall form part of the Consolidated Fund of Meghalaya.

(2) Where a tax relatable to entry 54 in the State List aforesaid levied by the Government of Assam is collected by that Government at the first point of sale or purchase of goods, such portion of the tax so collected as may be agreed by the Governments of Assam and Meghalaya or in default of such agreement, as the Central Government may determine, shall be payable to Meghalaya.

(3) The laws with respect to the taxes referred to in sub-section (1) shall have effect subject to such exceptions and modifications as the Central Government, may, by order, specify for the purpose of giving effect to the provisions of that sub-section.

56. *Distribution of Revenues.*—(1) The grants-in-aid under clause (1) of article 275 and the share of the taxes on income, the distributable Union duties of excise, the additional duties of excise on goods of special importance and estate duty payable to the State of Assam under the Constitution (Distribution of Revenue) Order, 1969, the Union Duties of Excise (Distribution) Act, 1962 (3 of 1962), the Additional Duties of Excise (Goods of Special Importance) Act, 1957 (58 of 1957), and the Estate Duty (Distribution) Act, 1962 (9 of 1962), shall be construed, as from the appointed day, as payable to the State of Assam and the autonomous State of Meghalaya in such proportion as the President may, by order, determine.

(2) Every order may by the President under sub-section (1) shall be laid before Parliament as soon as may be after it is made.

57. *Authorisation of expenditure pending its sanction by Legislative Assembly.*—The Governor may, at any time before the appointed day, authorise such expenditure from the Consolidated Fund of Meghalaya as he deems necessary for a period of not more than six months beginning with the appointed day pending the sanction of that expenditure by the Legislative Assembly:

Provided that the Governor may, after the appointed day, authorise such further expenditure as he deems necessary from the Consolidated Fund of Meghalaya for any period not extending beyond the said period of six months.

## PART V ASSETS AND LIABILITIES

58. *Apportionment of assets and liabilities.*—The assets and liabilities of the State of Assam immediately before the appointed day shall be apportioned between that State and Meghalaya in accordance with the provisions contained in the Third Schedule.

## PART VI

### ADMINISTRATIVE RELATIONS

59. *Obligation of Meghalaya, the State of Assam and the Union.*—The executive power of Meghalaya shall be so exercised as to ensure compliance with the laws made by Parliament, the Legislature of the State of Assam and any existing laws which apply in Meghalaya and the executive power of the Union and of the State of Assam shall extend to the giving of such directions to Meghalaya as may appear to the Government of India or the Government of Assam, as the case may be to be necessary for that purpose.

60. *Control over the autonomous State in certain cases.*—The executive power of Meghalaya shall be so exercised as not to impede or prejudice the exercise of the executive power of the Union or the Government of Assam, as the case may be, and the executive power of the Union and the State of Assam shall extend to the giving of such directions to Meghalaya as may appear to the Government of India or the Government of Assam, as the case may be, to be necessary for that purpose.

61. *Entrustment of functions.*—Notwithstanding anything in this Act,—

(a) the Government of Assam may, with the consent of the Government of Meghalaya, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of the State of Assam extends;

(b) the Government of Meghalaya may, with the consent of the Government of Assam, entrust either conditionally or unconditionally to that Government or to its officers functions in relation to any matter to which the executive power of Meghalaya extends.

## PART VII

### TRANSITIONAL PROVISIONS

62. *Provisions as to Provisional Legislative Assembly.*—

(1) Until the Legislative Assembly of Meghalaya has been duly constituted and summoned to meet for the first session under the provisions of Part III, there shall be a Provisional Legislative Assembly which shall consist of not less than thirty-five and not more than fifty-five persons as the Central Government may, after consultation with the Election Commission, by order, determine, and such persons shall be elected in the manner specified in sub-section (2).

(2) Subject to the provisions of sub-section (1), the members of the Provisional Legislative Assembly shall be elected in the following manner, namely:—

(a) there shall be an electoral college for each autonomous district within Meghalaya which shall consist of the elected members of the District Council thereof, and each electoral college shall elect such number of persons to the Provisional Legislative

tive Assembly as the President may, after consultation with the Election Commission, by order, determine:

- (b) the election of members to the Provisional Legislative Assembly shall be in accordance with the system of proportional representation by means of the single transferable vote and shall be subject to such rules as the Central Government may, after consultation with the Election Commission, make in this behalf.

(3) The Central Government may nominate to the Provisional Legislative Assembly not more than three persons, not being persons in the service of the Government to represent any minority communities in Meghalaya which, in its opinion, need representation in the Assembly.

(4) No person shall be qualified to be chosen as a member of the Provisional Legislative Assembly unless he is a person whose name is for the time being entered in the electoral roll for so much of any constituency of the Legislative Assembly of Assam as is comprised within Meghalaya and is not less than twenty-five years of age.

(5) If owing to death, resignation or otherwise, the office of a member of the Provisional Legislative Assembly falls vacant, it may be filled up as soon as practicable under and in accordance with the foregoing provisions of this section.

(6) The term of office of the members of the Provisional Legislative Assembly shall expire immediately before the first meeting of the Legislative Assembly duly constituted under this Act.

(7) The election by the electoral college under this section shall not be called in question on the ground merely of the existence of a vacancy in the membership of any District Council forming part of the electoral college.

(8) The Provisional Legislative Assembly constituted under this section shall, for so long it is in existence, be deemed to be the Legislative Assembly duly constituted under this Act, and accordingly the provisions of Part III shall, so far as may be, apply in relation to the Provisional Legislative Assembly as they apply in relation to the Legislative Assembly.

## PART VIII

### MISCELLANEOUS PROVISIONS

63. *Special committee for development of Shillong.*—The Central Government may, in consultation with the Governments of Assam and Meghalaya, by order, constitute a committee consisting of such number of persons as it may think fit for advising the two Governments on matters of common interest with respect to Shillong in the field of education and water supply in particular, and with respect to its development and administration in general.

*Explanation.*—In this section, Shillong shall mean the areas comprised within the cantonment and municipality of Shillong and include such other areas adjoining the said cantonment or municipality as may be agreed upon by the Governments of Assam and Meghalaya in this behalf.

64. *Provisions as to continuance of courts.*—All courts and tribunals and all authorities discharging judicial functions throughout Meghalaya or any part thereof immediately before the appointed day shall, unless their continuance is inconsistent with the provisions of this Act or until other provision is made by a competent

authority, continue to exercise their respective functions.

65. *Provisions relating to services.*—(1) Every person who being a member of an All-India Service is for the time being borne on the Assam State Cadre of that Service or is otherwise serving in connection with the affairs of the State of Assam as a member of class I service of that State may be required by the Government of that State to serve in connection with the affairs of Meghalaya for such period or periods as the Government of Assam may, by order, direct:

Provided that no such order shall be made—

- (a) before the appointed day, except with the approval of the Central Government; and  
(b) on or after the appointed day, except in accordance with such rules as may be made by the Central Government after consultation with the Governments of Assam and Meghalaya.

(2) Subject to any general or special order which the Central Government may make in this behalf, the control over any such person as is referred to in sub-section (1) shall, for so long as he is required to serve in connection with the affairs of Meghalaya, be vested in the Government of Meghalaya.

(3) Such persons serving in connection with the affairs of the State of Assam immediately before the appointed day, not being a person referred to in sub-section (1), as may be determined by agreement between the Government of Assam and the Government of Meghalaya or in default of agreement by the Central Government, may, notwithstanding anything in the terms of their appointments or their conditions of service, be required to serve in connection with the affairs of the autonomous State.

(4) All previous service rendered by a person referred to in sub-section (3) in connection with the affairs of the State of Assam shall be deemed to have been rendered in connection with the affairs of the autonomous State for the purposes of the rules regulating his conditions of service.

(5) Nothing in sub-section (3) and (4) shall be deemed to affect the power of the Legislature of Meghalaya or the Governor to determine the conditions of service of persons serving in connection with the affairs of Meghalaya:

Provided that the conditions of service applicable immediately before the appointed day to any person referred to in sub-section (3) shall not be varied to his disadvantage except with the previous approval of the Government of Assam.

66. *Continuance of existing laws and their adaptations.*

—(1) All laws in force immediately before the appointed day in the autonomous State shall continue to be in force therein altered, repealed or amended by a competent legislature or other competent authority.

(2) For the purpose of facilitating the application in relation to the autonomous State of any law made before the appointed day, the appropriate Government may, within two years from that day, by order, make such adaptations or modifications of the law, whether by way of repeal or amendment, as may be necessary or expedient and thereupon every such law shall have effect subject to the adaptations and modifications so made until altered, repealed or amended by a competent legislature or other competent authority.

**Explanation.**—In this section, the expression “appropriate Government” means as respects any law relating to a matter enumerated in the Union List in the Seventh Schedule to the Constitution, the Central Government, as respects any law relating to a matter in the Second Schedule, the Government of Meghalaya, and, as respects any other law, the Government of Assam.

**67. Autonomous State to be a State for certain purposes of the Constitution.**—Subject to the other provisions contained in this Act, reference to a State (by whatever form of words) in any of the following articles of the Constitution shall be construed as including a reference to the autonomous State, namely:—

Articles 12 to 15 (inclusive), 16 [except clause (3) thereof], 18, 19, 23, 25, 28 to 31 (inclusive), 31A, 34 to 51 (inclusive), 58, 59, 66, 73, 102, 110(1) (f), 131, 138, 149, 150, 151, 161, 209, 210, 233, 234, 235, 237, 251, 252, 256 to 258A (inclusive), 261, 262, 263, 268, 269, 270, 272, 274 to 280 (inclusive), 282, 288, 289, 293, 296, 298 to 305 (inclusive), 308 to 311 (inclusive), 320, 323(2), 324 to 329 (inclusive), 339 to 342 (inclusive), 345 to 348 (inclusive), 350, 350A, 350B, 353, 355 to 358 (inclusive), 360, 361, 364 to 367 (inclusive).

**Explanation.**—Reference in any of the articles above specified to the High Court or to the State Public Service Commission shall be construed as reference to the High Court of Assam or the Public Service Commission of the State of Assam, as the case may be.

**68. Power of Governments of Assam and Meghalaya to carry on trade, etc., in Meghalaya.**—(1) The executive power which the Government of Assam may exercise under article 298 in Meghalaya for the carrying on of any trade or business and for the acquisition, holding and disposal of property and the making of contracts for any purpose shall, in so far as such trade or business or such purpose is not one with respect to which the legislature of the State of Assam may make laws, be subject to legislation by the Legislature of Meghalaya.

(2) The executive power which the Government of Meghalaya may exercise under article 298 in Meghalaya for the carrying on of any trade or business and for the acquisition, holding and disposal of property and the making of contracts for any purpose shall, in so far as such trade or business or such purpose is not one with respect to which the Legislature of Meghalaya may make laws, be subject also to legislation by the Legislature of the State of Assam.

**69. Power to suspend provisions of this Act in case of failure of constitutional machinery.**—Where a Proclamation is issued under article 356 in respect of Meghalaya, the President may, by the same Proclamation or a subsequent Proclamation varying it, suspend also, in whole or in part, the operation of any of the provisions of this Act.

**70. Construction of references to “State” and “State Government” in other laws in relation to Meghalaya.**—Without prejudice to the provisions of sections 66 and 71 the Central Government may, after consulting the Government of Assam, by notification in the Official Gazette, declare that any reference to a “State” in a Central Act specified in the notification shall, in its application to Meghalaya, be construed as a reference to the whole or any part of Meghalaya and any reference to “State Government” in a Central Act specified in the notification shall in its application to Meghalaya be construed as a reference to the Central Government.

**71. Power to construe laws.**—Notwithstanding that no provision or insufficient provision has been made under section 66 for the adaptation of a law made before the appointed day, any court, tribunal or authority required or empowered to enforce such law may, for the purpose of facilitating its application in relation to the autonomous State, construe the law in such manner not affecting the substance as may be necessary or proper in regard to the matter before the court, tribunal or authority, as the case may be.

**72.—Effect of provisions of Act in consistent with other laws.**—The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law.

**73.—Power to remove difficulties.**—(1) If any difficulty arises in giving effect to the provisions of this Act, the President may, by order, do anything not inconsistent with such provisions which appears to him to be necessary or expedient for the purpose of removing the difficulty.

(2) Every order made under this section shall be laid before both Houses of Parliament as soon as may be after it is made.

**74. Amendment of the Sixth Schedule.**—The Sixth Schedule in the Constitution shall stand amended as specified in the Fourth Schedule.

**75. Amendment of Act 2 of 1934.**—In section 21A of the Reserve Bank of India Act, 1934, (2 of 1934), in sub-section (1), after the words “any State”, the brackets and words “(including the autonomous State of Meghalaya)” shall be inserted.

**76. Amendment of Act 37 of 1956.**—In section 16 of the States Reorganisation Act 1956 (37 of 1956), in sub-section (1), for clause (d), the following clause shall be substituted, namely:—

“(d) in the case of the Eastern Zone,—

(i) the Chief Minister and another Minister of the autonomous State of Meghalaya to be nominated by the Governor of Assam and if there is no Council of Ministers therein, not more than two members from the autonomous State of Meghalaya to be nominated by the President; and

(ii) the person for the time being holding the office of the Adviser to the Governor of Assam for Tribal areas.”

**77. Power to make rules.**—(1) The Central Government may, by notification in the Official Gazette, make rules to give effect to the provisions of this Act.

(2) Every rule made under this section shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two successive sessions, and, if before the expiry of the session in which it is so laid or the session immediately following, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## THE FIRST SCHEDULE

(See sections 7, 16 and 26)

### FORMS OF OATHS OF AFFIRMATIONS

#### I

Form of oath or affirmation to be made by a candidate

for election to the Legislative Assembly:—

"I, A.B., having been nominated as a candidate to fill a seat in the Legislative Assembly of Meghalaya do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established and that I will uphold the sovereignty and integrity of India."

## II

Form of oath or affirmation to be made by a member of the Legislative Assembly:—

"I, A.B., having been elected (or nominated) a member of the Legislative Assembly of Meghalaya do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India and that I will faithfully discharge the duty upon which I am about to enter."

## III

Form of oath of office for a member of the Council of Ministers:—

"I, A.B., do swear in the name of God/solemnly affirm that I will bear true faith and allegiance to the Constitution of India as by law established, that I will uphold the sovereignty and integrity of India, that I will faithfully and conscientiously discharge my duties as a Minister for Meghalaya and that I will do right to all manner of people in accordance with the Constitution and the law without fear or favour, affection or ill-will."

## IV

Form of oath of secrecy for a member of the Council of Ministers:—

"I, A.B., do swear in the name of God/solemnly affirm that I will not directly or indirectly communicate or reveal to any person or persons any matter which shall be brought under my consideration or shall become known to me as a Minister for Meghalaya except as may be required for the due discharge of my duties as such Minister."

## THE SECOND SCHEDULE

(See sections 33 and 36)

### AUTONOMOUS STATE LIST

[See section 33 (1)]

Matters with respect to which the Legislative Assembly has exclusive power to make laws.

### PART A

The following matters enumerated or to the extent included in List II—State List\*.

1. Village and town police within the meaning of clause (f) of sub-paragraph (1) of paragraph 3 of the Sixth Schedule to the Constitution (Entry 2).

2. Administration of justice; constitution and organisation of all courts, except the Supreme Court and the High Court; procedure in rent and revenue courts; fees taken in all courts except the Supreme Court and the High Court (Entry 3).

3. Prisons, reformatories, Borstal institutions and other institutions of a like nature and persons detained therein; arrangements with the State of Assam and other States for the use of prisons and other institutions (Entry 4).

4. Local Government, that is to say, the constitution and powers of municipal corporations, improvement trusts, district boards, mining settlement authorities and other local authorities for the purpose of local self-government or village administration (Entry 5).

5. Public health and sanitation; hospital and dispensaries (Entry 6).

6. Pilgrimages, other than pilgrimages to places outside India (Entry 7).

7. Intoxicating liquors, that is to say, the production, manufacture, possession, transport, purchase and sale of intoxicating liquors (Entry 8).

8. Relief of the disabled and unemployable (Entry 9).

9. Burials and burial grounds; cremations and cremation grounds (Entry 10).

10. Education including universities, subject to the provisions of entries 63, 64, 65 and 66 of List I and Entry 25 of List II (Entry 11).

\*Note—Reference in this Schedule to List I, List II or List III or to entries therein are references to the said List or entries therein the Seventh Schedule to the Constitution; and references in brackets at the end of each entry are reference to the corresponding entries in List II or List III in the said Schedule and have been inserted for the sake of convenience only.

11. Libraries, museums and other similar institutions controlled or financed by the autonomous State ancient and historical monuments and records other than those declared by or under law made by Parliament to be of national importance (Entry 12).

12. Communications that is to say, roads, bridges, ferries and other means of communication not specified in List I, but excluding roads, bridges and ferries declared by the Legislature of Assam by law to be State highways; municipal tramways; ropeways; inland waterways and traffic thereon subject to the provisions of List I and List III with regard to such water ways; vehicles other than mechanically propelled vehicles (Entry 13).

13. Agriculture, including agricultural education and research, protection against pests and prevention of plant diseases subject to the provisions of entry I of Part C (Entry 14).

14. Preservation, protection and improvement of stock and prevention of animal diseases; veterinary training and practice (Entry 15).

15. Pounds and the prevention of cattle trespass (Entry 16).

16. Water, that is to say, water supplies, irrigation and canals, drainage and embankments, water storage and water power, subject to the provisions of entry 56 of List I, but excluding water-supplies, irrigation and canals, drainage and embankments, water storage and water power in relation to irrigation, hydro-electric and navigation projects financed by the Government of Assam wholly or in part and declared by the Legislature of the State of Assam by law to be projects of State importance (Entry 17).

17. Land, that is to say, rights in or over land, tenures including the relation of landlord and tenant, and the collection of rents; transfer and alienation of agricultural land; land improvement and agricultural loans, colonization (Entry 18).



18. Forest, subject to the provisions of entry 2 of Part C (Entry 19).
19. Protection of wild animals and birds (Entry 20).
20. Fisheries (Entry 21).
21. Courts of wards subject to the provisions of entry 34 of List I; encumbered and attached estates (Entry 22).
22. Regulation of mines and mineral development subject to the provisions of List I with respect to regulation and development under the control of the Union (Entry 23).
23. Gas and gas-works (Entry 25).
24. Trade and commerce within the autonomous State subject to the provisions of entry 33 of List III (Entry 26).
25. Markets and fairs (Entry 28).
26. Weights and measures, except establishment of standards (Entry 29).
27. Money-lending and money-lenders; relief of agricultural indebtedness (Entry 30).
28. Inns and inn-keepers (Entry 31).
29. Incorporation, regulation and winding up of universities; unincorporated trading, literary, scientific, religious and other societies and associations; co-operative societies (Entry 32).
30. Theatres and dramatic performances; cinemas subject to the provisions of entry 60 of List I; sports, entertainments and amusements (Entry 33).
31. Betting and gambling (Entry 34).
32. Works, lands and buildings vested in or in the possession of the autonomous State (Entry 35).
33. Elections to the legislature of the autonomous State subject to the provisions of any law made by Parliament (Entry 37).
34. Salaries and allowance of members, Speaker and Deputy Speaker of the Legislative Assembly (Entry 38).
35. Powers, privileges and immunities of the Legislative Assembly and of the members and committees thereof, enforcement of attendance of persons for giving evidence or producing documents before committees of the Legislature of Meghalaya (Entry 39).
36. Salaries and allowances of Ministers for the autonomous State (Entry 40).
37. Public services of the autonomous State (Entry 41).
38. Pensions payable by the autonomous State or out of the Consolidated Fund of Meghalaya (Entry 42).
39. Public debt of the autonomous State (Entry 43).
40. Treasure trove (Entry 44).
41. Land revenue, including the assessment and collection of revenue, the maintenance of land records, survey for revenue purposes and records of rights, and alienation of revenues (Entry 45).
42. Taxes on agricultural income (Entry 46).
43. Duties in respect of succession to agricultural land (Entry 47).

44. Estate duty in respect of agricultural land (Entry 48).

45. Taxes and lands and buildings (Entry 49).

46. Taxes on mineral rights subject to any limitations imposed by Parliament by law relating to mineral development (Entry 50).

47. Duties of excise on the following goods manufactured or produced in the autonomous State and countervailing duties at the same or lower rates on similar goods manufactured or produced elsewhere in India:—

(a) alcoholic liquors for human consumption:

(b) opium, Indian hemp and other narcotic drugs and narcotics; but not including medicinal and toilet preparations containing alcohol or any substance included in sub-paragraph (b) of this entry (Entry 51).

48. Taxes on the entry of goods into a local area for consumption, use or sale therein (Entry 52).

49. Taxes on advertisements other than advertisements published in the newspapers (Entry 55).

50. Taxes on goods and passengers carried by road or on land waterways (Entry 56).

51. Taxes on vehicles, whether mechanically propelled or not, suitable for use on roads including trams-cars subject to the provisions of entry 35 of List III (Entry 57).

52. Taxes on animals and boats (Entry 58).

53. Tolls (Entry 59).

54. Taxes on professions, trades, callings and employments (Entry 60).

55. Capitation taxes (Entry 61).

56. Taxes on luxuries, including taxes on entertainments, amusements, betting and gambling (Entry 62).

57. Rates of stamp duty in respect of documents other than those specified in the provisions of List I with regard to rates of stamp duty (Entry 63).

58. Any other matter not enumerated in this Part and in respect of which a District Council has power to make law under paragraph 3 of the Sixth Schedule in the Constitution, to the extent to which it is not included in entry 16 of this Part and entry 2 of Part C.

59. Offences against laws with respect to any of the matters in this Part (Entry 64).

60. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 65).

61. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 66).

#### PART B

The following matters enumerated or to the extent included in List III—Concurrent List.

1. Marriage and divorce; wills, intestacy and succession; social customs; appointment or succession of Chiefs or Headmen (Entry 5).

2. Offences against laws with respect to any of the matters in this Part (Entry 1).

3. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in



this Part (Entry 46).

4. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 47).

*Concurrent List between the autonomous State and the State of Assam*

### PART C

[See section 33(2)]

Matters with respect to which the Legislature of Meghalaya and the Legislature of the State of Assam also have power to make laws, namely, the following matters enumerated or to the extent included in List II—State List and List III—Concurrent List.

1. Scheme of agriculture designed to benefit both the areas of the autonomous State as well as the rest of Assam (Entry 14 of List II).

2. Conservation of forests in catchment areas of projects referred to in entry 16 of Part A, financed by the Government of Assam wholly or in part and declared by the Legislature of the State of Assam by law to be projects of State importance (Entry 19 of List II).

3. Industries subject to the provisions of entries 7 and 52 of List I (Entry 24 of List II).

4. Production, supply and distribution of goods, subject to the provisions of entry 33 of List III (Entry 27 of List II).

5. Removal from the autonomous State to any other areas of the State of Assam or to any other State of prisoners and accused persons (Entry 4 of List III).

6. Transfer of property other than agricultural land, subject to entry 58 of Part A; registration of deeds and documents (Entry 6 of List III).

7. Economics and social planning (Entry 20 of List II).

8. Acquisition and requisitioning of property (Entry 12 of List III).

9. Recovery in the autonomous State of claims in respect of taxes and other public demands, including arrears of land revenue and sums recoverable as such arrears, arising outside the autonomous State (Entry 43 of List III).

10. Inquiries and statistics for the purposes of any of the matters specified in this Schedule (Entry 45 of List III).

11. Offences against laws with respect to any of the matters in this Part (Entry 64 of List II and Entry 1 of List III).

12. Jurisdiction and powers of all courts, except the Supreme Court, with respect to any of the matters in this Part (Entry 65 of List II and Entry 46 of List III).

13. Fees in respect of any of the matters in this Part, but not including fees taken in any court (Entry 66 of List II and Entry 47 of List III).

### THE THIRD SCHEDULE

(See section 58)

#### APPORTIONMENT OF ASSETS AND LIABILITIES

1. *Definitions.*—In this Schedule,—

(a) "purpose of the autonomous State" means a purpose relatable to any of the matters in respect

of which the Legislature of Meghalaya has power to make laws under this Act; and

(b) "population ratio", in relation to Meghalaya, means such ratio as the Central Government may, by order, specify as the ratio between the population as ascertained at the last preceding census of Meghalaya and the rest of the State of Assam.

2. *Lands and Goods.*—(1) Subject to the other provisions contained in this Schedule, all land and stores, articles and other goods held by the State of Assam within the territories of Meghalaya shall, on the appointed day, pass to Meghalaya, if he purposes for which they were held will be purposes of the autonomous State.

(2) Stores relating to the Secretariat and offices of Heads of Departments having jurisdiction over the areas comprised partly in Meghalaya and partly in the rest of Assam and unissued stores shall be divided between the State of Assam and Meghalaya in accordance with such directions as the Central Government may think fit to issue for a just and equitable distribution thereof.

*Explanation.*—In this paragraph, the expression "land" includes immovable property of every description and any rights in or over such property, and the expression "goods" does not include coins, bank notes and currency notes.

3. *Treasury and bank balances.*—The total of the cash balances in all treasuries of the State of Assam and the balances of that State with the Reserve Bank of India or any other bank immediately before the appointed day shall be divided between the State of Assam and Meghalaya according to the population ratio:

Provided that for the purpose of such division there shall be no transfer of cash balance from any treasury to any other treasury, and the apportionment shall be effected by adjusting the balance of the State of Assam and Meghalaya in the books of the Reserve Bank of India on the appointed day or in such other manner as the Central Government may, by order, direct.

4. *Arrears of taxes.*—Meghalaya shall have the right to recover the arrears of any tax or duty, including the arrears of land revenue, on property situate in Meghalaya, and shall also have the right to recover the arrears of any other tax or duty if the place of assessment of that tax or duty is located in Meghalaya:

Provided that nothing in this paragraph shall apply in relation to arrears of any tax or duty which Meghalaya is not competent to collect.

5. *Right to recover loans and advances.*—(1) The right to recover any loans or advances made before the appointed day by the State of Assam to any local body, society, agriculturist or other person in Meghalaya shall belong to Meghalaya, if the purpose for which the loans or advances were made will thereafter be a purpose of the autonomous State.

(2) The right to recover loans and advances of pay and travelling allowances to a Government servant made before the appointed day by the State of Assam shall pass to Meghalaya if, after the appointed day, that Government servant is required to serve in connection with the affairs of Meghalaya under sub-section (3) of section 65.

6. *Investments and credits in certain funds.*—The investments made before the appointed day from the

Cash Balance Investment Account and any other general fund of the State of Assam shall, after the appointed day, be divided between the State of Assam and Meghalaya according to the population ratio, and the investments in any special fund the objects of which are confined to a local area in Meghalaya shall pass to Meghalaya if such investment relates to a purpose of the autonomous State.

**7. Assets and liabilities of State undertakings and investments.**—(1) The assets and liabilities in Meghalaya on the appointed day relating to any commercial or industrial undertaking of the State of Assam other than an undertaking on which the State of Assam has incurred a capital outlay exceeding rupees fifty lakhs or a Government company shall, after the appointed day, pass to Meghalaya if the purpose of the undertaking relates to a purpose of the autonomous of the State.

(2) Where a depreciation reserve fund is maintained by the State of Assam for any such undertaking as is referred to in sub paragraph (1), the securities held in respect of such investments made from that fund shall pass to Meghalaya.

(3) The investments of the State of Assam made before the appointed day in any body corporate or co-operative society whose area of operation or jurisdiction extends to areas comprised partly within Meghalaya and partly within the rest of the State of Assam, or in any Government company or private commercial or industrial undertaking shall, if the Central Government so directs, be allocated between the Government of Assam and the Government of Meghalaya in such proportion as may be agreed upon between the two Governments within one year from the date of the direction aforesaid or, in default of such agreement, as the Central Government may by order direct.

**8. Public debt.**—(1) The public debt of the State of Assam attributable to loans raised by the issue of Government securities and outstanding with the public immediately before the appointed day shall continue to be the public debt of that State, and Meghalaya shall be liable to pay to the State of Assam its share of the sums due from time to time for the servicing and repayment of the debt.

(2) For the purpose of determining the share referred to in sub-paragraph (1), the debt shall be deemed to be divided between the State of Assam and Meghalaya as if it were a debt referred to in sub-paragraph (4).

(3) Out of so much of the public debt of Assam, other than the public debt referred to in sub-paragraph (1), as is equal to the amount of loans and advances made by that State and outstanding on the appointed day, the share of the liability of Meghalaya shall be for an amount equal to the loans and advances recoverable by Meghalaya under paragraph 5.

(4) The remaining public debt of the State of Assam attributable to loans taken from the Central Government, the Reserve Bank of India or any other body or bank outstanding immediately before the appointed day, shall be divided between the State of Assam and Meghalaya in proportion to the total capital expenditure on all capital works and other capital outlays incurred or deemed to have been incurred by the State of Assam up to the appointed day and the total expenditure on all capital works and other capital outlays incurred or deemed to have been incurred up to that day in Meghalaya for purposes of the autonomous State.

(5) For the purposes of this paragraph, "Government Security" means a security created and issued by the State of Assam for the purpose of raising a public loan

and having any of the forms specified in or prescribed under, clause (2) of section 2 of the Public Debt Act, 1944 (18 of 1944).

**9. Refund of taxes collected in excess.**—After the appointed day it shall be the liability of Meghalaya to refund any tax or duty on property, including land revenue, collected in excess on any property situate in Meghalaya or any other tax or duty collected in excess, if the place of assessment of that tax or duty is situate in Meghalaya.

Provided that nothing in this paragraph shall apply to the refund of any tax or duty which Meghalaya is not competent to collect.

**10. Deposits, etc.**—The liability of the State of Assam in respect of any civil deposit or local fund deposit made before the appointed day in any place situate in Meghalaya, shall become the liability of Meghalaya if the deposit is for any purpose of the autonomous State.

**11. Provident Fund.**—The liability of the State of Assam in respect of the Provident Fund account of a Government servant required to serve in connection with the affairs of Meghalaya under sub-section (3) of section 65 shall, on and from the appointed day, be the liability of Meghalaya.

**12. Pensions.**—The liability of the State of Assam or Meghalaya in respect of pensions shall be apportioned between the two in such manner as may be agreed upon between them or in default of such agreement, in such manner as the Central Government may, by order, specify.

**13. Contracts.**—(1) Where, before the appointed day, the State of Assam has made any contract in the exercise of its executive power for any of the purposes of that State, that contract shall be deemed to have been made in the exercise of the executive power of Meghalaya if the purpose is as from that day exclusively a purpose of the autonomous State, and all rights and liabilities which have accrued, or may accrue, under any such contract shall, to the extent to which they would have been rights or liabilities of Assam, be rights or liabilities of Meghalaya.

(2) For the purposes of this paragraph, there shall be deemed to be included in the liabilities which have accrued or may accrue under any contract—

- any liability to satisfy an order or award made by any court or tribunal in proceedings relating to the contract; and
- any liability in respect of expenses incurred in, or in connection with, any such proceedings.

(3) This paragraph shall have effect subject to the other provisions of this Schedule relating to the apportionment of liabilities of in respect of loans, guarantees and other financial obligations; and bank balances and securities shall, notwithstanding that they partake of the nature of contractual rights, be dealt with under those provisions.

**14. Liability in respect of actionable wrong.**—Where, immediately before the appointed day, the State of Assam is subject to any liability in respect of an actionable wrong other than a breach of contract, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

**15. Liability as guarantor.**—Where, immediately before the appointed day, the State of Assam is liable as guarantor in respect of any liability of a registered

co-operative society or other person, that liability shall be the liability of Meghalaya if it relates thereafter to a purpose of the autonomous State.

16. *Items in suspense.*—If any item in suspense relating to a purpose of the autonomous State is ultimately found to affect an asset or liability of the nature referred to in any of the foregoing paragraphs of this Schedule it shall be dealt with in accordance with that provision.

17. *Residuary provisions.*—The benefit or burden of any asset or liability of the State of Assam which relates to a purpose of the autonomous State and which is not dealt with in any of the foregoing paragraphs of this Schedule, shall pass to Meghalaya.

18. *Apportionment of assets and liabilities by agreement.*—Where the State of Assam and Meghalaya agree that the benefit or burden of any particular asset or liability should be apportioned between them in a manner other than that as provided for in the foregoing paragraphs of this Schedule, then, notwithstanding anything contained therein, the benefit or burden of that asset or liability shall be apportioned in the manner agreed upon.

19. *Power of Central Government to order allocation or adjustment in certain cases.*—Where, by virtue of any of the provisions of this Schedule, the State of Assam or Meghalaya is entitled to any property or obtains any benefits or becomes subject to any liability, and the Central Government is of opinion, on a reference made to it within a period of three years from the appointed day by the State of Assam or the autonomous State, as the case may be, that it is just and equitable that the property or those benefits should be transferred to one of the two States or shared between them or that a contribution towards that liability should be made by either of the States, the said property or benefits shall be allocated in such manner, or Meghalaya or the State of Assam shall make to the other State primarily subject to the liability such contribution in respect thereof, as the Central Government may, after consultation with the Government of Assam and the Government of Meghalaya, by order, determine.

#### THE FOURTH SCHEDULE

(See section 74)

#### AMENDMENTS TO THE SIXTH SCHEDULE OF THE CONSTITUTION

1. In the Sixth Schedule to the Constitution (hereinafter referred to as the Sixth Schedule), in sub-paragraph (3) of paragraph 1, after clause (f), the following clause shall be inserted, namely:—

“(ff) after the name of any autonomous district,”;

2. In paragraph 2 of the Sixth Schedule,—

(i) for sub-paragraph (1), the following sub-paragraph shall be substituted, namely:—

“(1) There shall be a District Council for each autonomous district consisting of not more than thirty members, of whom not more than four persons shall be nominated by the Governor and the rest shall be elected on the basis of adult suffrage”;

(ii) in sub-paragraph (6)—

(a) in clause (e), for the words “such Councils” the words “Regional Councils” shall be substituted;

(b) in clause (g), after the words “conduct of business”, the brackets and words “(including the power to act notwithstanding any vacancy”

shall be inserted;

(iii) after sub-paragraph (6), the following sub-paragraph shall be inserted, namely:—

“(6A) The elected members of the District Council shall hold office for a term of five years from the date appointed for the first meeting of the Council after the general elections to the Council, unless the District Council is sooner dissolved under paragraph 16 and a nominated members shall hold office at the pleasure of the Governor:

Provided that the said period of five years may, while a Proclamation of Emergency is in operation or if circumstances exist which, in the opinion, of the Governor, render the holding of elections impracticable, be extended by the Governor, for a period not exceeding one year at a time and in any case where a Proclamation of Emergency is in operation not extending beyond a period of six months after the Proclamation has ceased to operate: Provided further that a member elected to fill a casual vacancy shall hold office only for the remainder of the term of office of the member whom he replaces.”;

(iv) in sub-paragraph (7)—

(a) after the words “make rules”, where they first occur, the words “with the approval of the Governor” shall be inserted, and where they occur as second time, the words “with like approval” shall be inserted;

(b) the second proviso shall be omitted.

3. In paragraph 3 of the Sixth Schedule, in sub-paragraph (1),—

(i) in the proviso to clause (a), for the words “Government of Assam”, the words “Government of Assam or the Government of Meghalaya” shall be substituted;

(ii) for clause (i), the following clause shall be substituted, namely:—

(i) “marriage and divorce”;

4. In paragraph 4 of the Sixth Schedule, the following sub-paragraph shall be inserted at the end, namely:—

(5) On and from such date as the President may, after consulting the Government of Assam or, as the case may be, the Government of Meghalaya, by notification appoint in this behalf, this paragraph shall have effect in relation to such autonomous district or region as may be specified in the notification, as if—

(i) in sub-paragraph (1), for the words “between the parties all of whom belong to Scheduled Tribes within such areas, other than suits and cases to which the provisions of sub-paragraph (1) of paragraph 5 of this Schedule apply,” the words “not being suits and cases of the nature referred to in sub-paragraph (1) of paragraph 5 of this Schedule, which the Governor may specify in this behalf,” had been substituted;

(ii) sub-paragraph (2) and (3) had been omitted;

(iii) in sub-paragraph (4)—

(a) for the words “A Regional Council or District Council, as the case may be, may with the previous approval of the

Governor make rules regulating", the words "The Governor may make rules regulating" had been substituted; and

- (b) for clause (a), the following clause had been substituted, namely:—

"(a) the constitution of village councils and courts, the powers to be exercised by them under this paragraph and the courts to which appeals from the decisions of village councils and courts shall lie;"

- (c) for clause (c), the following clause had been substituted, namely:—

(c) "the transfer of appeals and other proceedings pending before the Regional or District Council or any court constituted by such Council immediately before the date appointed by the President under sub-paragraph (5);" and

- (d) in clause (e), for the words, brackets and figures "sub-paragraphs (1) and (2)", the word, brackets and figure "sub-paragraph (1)" had been substituted."

5. In paragraph 65 of the Sixth Schedule, after sub-paragraph (3), the following sub-paragraph shall be inserted, namely:—

"(4) On and from the date appointed by the President under sub-paragraph (5) of paragraph 4 in relation to any autonomous district or autonomous region, nothing contained in this paragraph shall, in its application to that district or region, be deemed to authorise the Governor to confer on the District Council or Regional Council or on courts constituted by the District Council any of the powers referred to in sub-paragraph (1) of this paragraph."

6. For paragraph 6 of the Sixth Schedule, the following paragraph shall be substituted, namely:—

"6. *Powers of the District Council to establish primary schools, etc.*—(1) The District Council for an autonomous district may establish, construct, or manage primary schools, dispensaries, markets, cattle, ponds, ferries, fisheries roads, road transport and water ways in the district and may, with the previous approval of the Governor, make regulations for the regulation and control thereof and, in particular, may prescribe the language and the manner in which primary education shall be imparted in the primary schools in the district.

- (2) The Governor may, with the consent of any District Council, entrust either conditionally or unconditionally to that Council or to its officers functions in relation to agriculture, animal husbandry, community projects, co-operative societies, social welfare, village planning or any other matter to which the executive power of the State of Assam or Meghalaya, as the case may be, extends."

7. In paragraph 7 of the Sixth Schedule, for sub-paragraph (2), the following sub-paragraphs shall be substituted, namely:—

"(2) The Governor may make rules for the management of the District Fund, or, as the case may be, the Regional Fund and for the procedure to be followed in respect of payment of money into the said Fund, the withdrawal of moneys therefrom, the

custody of moneys therein and any other matters connected with or ancillary to the matters aforesaid

- (3) The accounts of the District Council, or as the case may be, the Regional Council shall be kept in such form as the Comptroller and Auditor General of India may, with the approval of the President prescribe

- (4) The Comptroller and Auditor General shall cause the accounts of the District and Regional Councils to be audited in such manner as he may think fit, and the reports of the Comptroller and Auditor General relating to such accounts shall be submitted to the Governor who shall cause them to be laid before the Council."

8. In paragraph 8 of the Sixth Schedule, in sub-paragraph (4), the following words shall be inserted at the end, namely:—

"and every such regulation shall be submitted forthwith to the Governor and, until assented to by him, shall have no effect."

9. After paragraph 12 of the Sixth Schedule, the following paragraph shall be inserted, namely:—

"12A. *Special provisions as respects application of laws in Meghalaya.*—(1) Notwithstanding anything contained in paragraph 12,—

- (a) any provision of a law made by a District or Regional Council in Meghalaya with respect to any of the matters specified in clause (b) or clause (c) of sub-paragraph (1) of paragraph 3 of this Schedule is repugnant to any provision of a law made by the Legislature of the State of Assam with respect to any project declared by the Legislature of that State to be of State importance, then, the law made by the District Council or as the case may be, the Regional Council, whether made before or after the law made by the Legislature of the State of Assam, shall, to the extent of the repugnancy, be void and the law made by the Legislature of the State of Assam shall prevail;
- (b) if any provision of a law made by a District or Regional Council in Meghalaya with respect to any of the matters specified in clause (b) (c) or clause (f) of sub-paragraph (1) of paragraph 3 of this Schedule is repugnant to any provision of a law made by the Legislature of Meghalaya with respect to that matter, then, the law made by the District Council or, as the case may be, the Regional Council whether made before or after the law made by the Legislature of Meghalaya, shall, to the extent of repugnancy, be void and the law made by the Legislature of Meghalaya shall prevail.

- (2) If it appears to two or more District Councils or Regional Councils in Meghalaya to be desirable than any of the matters with respect to which they have power to make laws under paragraph 3 of this Schedule should be regulated by the Legislature of Meghalaya by law, and if resolutions to that effect are passed by the said District Councils or Regional Councils, it shall be lawful for the Legislature of Meghalaya to pass an Act regulating that matter accordingly, and any Act so passed shall apply to the autonomous districts or regions concerned, and to any other autonomous district



District or Regional Council whereof adopts it after wards by resolution passed in this behalf.

(3) Any Act passed by the Legislature of Meghalaya under sub-paragraph (2) of this paragraph may be amended or repealed by an Act of the Legislature Meghalaya passed in like manner, but shall not, as respect any autonomous district or region to which it applies, be amended or repealed by any law made by the District or Regional Council thereof.

(4) The Governor may, with respect to any Act of the Legislature of the State of Assam, and the President may, with respect to any Act of Parliament, by public notification direct, that it shall not apply to Meghalaya, or shall apply thereto, or to any part thereof subject to such exceptions or modifications as he may specify in the notification, and any such direction may be so given, as to have retrospective effect.

(5) The provisions of clause (b) of sub-paragraph (1) of paragraph 12 shall not apply to Meghalaya."

10. In sub-paragraph (1) of paragraph 15 of the Sixth Schedule, after the words "safery of India", the words "or is likely to be prejudicial to public order" shall be inserted.

11. Paragraph 16 of the Sixth Schedule shall be re-numbered as sub-paragraph (1) of that paragraph and to that paragraph as so re-numbered, the following sub-paragraphs shall be added, namely:—

"(2) If at any time the Governor is satisfied that a situation has arisen in which the administration of an autonomous district or region cannot be carried on in accordance with the provisions of this Schedule, he may, by public notification assume to himself all or any of the functions or powers vested in or exercisable by the District Council or, as the case may be, The regional Council and declare that such functions or powers shall be exercisable by such person or authority as he may specify in this be half for a period not exceeding six months:

Provided that the Governor by a further order or orders extend the operation of the initial order by a period not exceeding six months on each occasion.

(3) Every order made under sub-paragraph (2) of this paragraph with the reasons therefor shall be laid before the Legislature of the State and shall cease to operate at the expiration of thirty days from the date on which the State Legislature first sits after the issue of the order, unless, before the expiry of that period it has been approved by the State Legislators."

12. After paragraph 20 of the Sixth Schedule, the following paragraph shall be inserted, namely:—

"20A. Interpretation.—(1) In this Schedule,—

(a) "Governor", in relation to Meghalaya, means the Governor of Assam acting on the aid and advice of the Council Minister for Meghalaya, except in so far as he is by or under this Schedule required to exercise his functions in his discretion or to exercise his powers under sub-paragraph (4) of paragraph 12A;

(b) "Meghalaya" means the autonomous State formed under article 244A.

(2) Subject to any express provision made in this behalf, the provisions of this Schedule shall, in

their application to Meghalaya, have effect—

(i) as if references to the Government of Assam, State of Assam, State and Legislature of the State were references respectively to the Government of Meghalaya, the autonomous State of Meghalaya, Meghalaya and the Legislature of Meghalaya;

(ii) as if in paragraph 13, the words and figures "under article 202" had been omitted."

Assented to on 29th December, 1969

## THE MOTOR VEHICLES (AMENDMENT) ACT

1969

ACT No. 56 OF 1969

AN

ACT

Further amend the Motor Vehicles Act, 1939

BE it enacted by Parliament in the Twentieth Year of the Republic of India as follows:—

1. *Short title and commencement.*—(1) This Act may be called the Motor vehicles (Amendment) Act, 1969.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint, and different dates may be appointed for different provisions of this Act.

2. *Amendment of section 2.*—In section 2 of the Motor Vehicles Act, 1939 (4 of 1939) (hereinafter referred to as the principal Act),—

(a) clause (1) shall be re-numbered as clause (1B), and before clause (1B) as so re-numbered, the following clauses shall be inserted, namely:—

"(1) "area", in relation to any provision of this Act, means such area as the State Government may, having regard to the requirements of that provision, specify by notification in the Official Gazette;

(1A) "articulated vehicle" means a tractor to which a trailer is attached in such a manner that a part of the trailer is super-imposed on, and a part of the weight of the trailer is borne by, the tractor;";

(b) in clause (3), for the words "fixed or agreed rate or sum and from one point to another without stopping to pick up", the following words, brackets and figures shall be substituted, namely:—

"fixed or agreed rate or sum—

(i) on a time basis whether or not with reference to any route or distance, or

(ii) from one point to another, and in either case without stopping to pick up";

(c) in clause (9), for the figures "8,200", the figures "11,000" shall be substituted;

(d) in clause (13), for the figures "3,000", the figures "4,000", shall be substituted;

(e) for clause (17), the following clause shall be substituted, namely:—

"(17) "motor cycle" means a two-wheeled motor vehicle, the unladen weight of which, inclusive of the unladen weight of any detachable side car, having an extra wheel, attached to motor vehicle, does not exceed 600 kilograms;";



(f) after clause (28), the following clause shall be inserted, namely:—

“(28A) “route” means a line of travel which specifies the highway which may be traversed by a motor vehicle between one terminus and another;”

(g) after clause (29), the following clause shall be inserted, namely:—

“(29A) “tourist vehicle” means a contract carriage constructed or adapted and equipped and maintained in accordance with such specifications as the State Government may, by notification in the Official Gazette, specify in this behalf;”

3. *Amendment of section 3.*—In section 3 of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Notwithstanding anything contained in sub-section (1), a person who holds an effective driving licence authorising him to drive a motor car may drive any motor cab hired by him for his own use.”

4. *Amendment of section 7.*—In section 7 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Any person who is not disqualified under section 4 for driving a motor vehicle and who is not for the time being disqualified for holding or obtaining a driving licence may apply to the licensing authority having jurisdiction in the area—

(i) in which he ordinarily resides or carries on business, or

(ii) in which the school or establishment where he is receiving or has received instruction in driving a motor vehicle is situate, or

(iii) if the application is for a driving licence to drive as a paid employee, in which the employer resides or carries on business, for the issue to him of a driving licence.”

5. *Amendment of section 11.*—In section 11 of the principal Act,—

(a) in sub-section (1), after the proviso, the following further proviso shall be added, namely:—

“Provided further that where the application is for the renewal of a licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, the same shall be accompanied by a fresh medical certificate in Form C as set forth in the First Schedule, signed by a registered medical practitioner, and the provisions of sub-section (5) of section 7 shall apply to every such case.”

(b) after sub-section (3A), the following sub-section shall be inserted, namely:—

“(3B) When the authority to whom an application for the renewal of a licence to drive as a paid employee or to drive a transport vehicle is made is not the authority which issued the licence sought to be renewed, it may, for the purpose of deciding whether the application for such renewal may be granted, verify the antecedents of the applicant in such manner as may be prescribed and pending

the verification, such authority may grant a provisional licence for such period or periods not exceeding six months in the aggregate, subject to the condition that every such provisional licence shall cease to be effective immediately on the renewal of the licence sought to be renewed, or, as the case may be, on the refusal to renew the licence, and

(i) where the application for renewal has been rejected, the fee paid shall be refunded to such extent and in such manner as may be prescribed,

(ii) where the application for renewal has not been rejected within the said period, the licence shall be renewed.”

6. *Amendment of section 15.*—In section 15 of the principal Act,—

(a) in sub-section (1), for the words “a driving licence”, the words “any driving licence or a licence to drive a particular class or description of vehicle” shall be substituted;

(b) to sub-section (2), the following proviso shall be added, namely:—

“Provided that where the driving licence of a person authorises him to drive more than one class or description of motor vehicles and the order, made under sub-section (1), disqualifies him from driving any specified class or description of motor vehicles, the licensing authority shall endorse the disqualification upon the driving licence and return the same to the holder.”

7. *Amendment of section 16.*—In section 16 of the principal Act, in sub-section (1), for the words “a transport vehicle”, the words “any transport vehicle or a transport vehicle of a particular class or description” shall be substituted.

8. *Amendment of section 18.*—In section 18 of the principal Act, after the words “cease to be effective”, the words “to such extent and” shall be inserted.

9. *Amendment of section 21.*—In section 21 of the principal Act, in sub-section (2),—

(a) for clause (aa), the following clause shall be substituted, namely:—

“(aa) the minimum qualifications of persons to whom licences to drive transport vehicles are issued, the time within which such qualifications are to be acquired by persons holding immediately before the commencement of the Motor Vehicles (Amendment) Act, 1969, licence to transport vehicles, and the duties, functions and conduct of such persons;”

(b) in clause (dd), for the words “stage carriages or contract carriages”, the words “transport vehicles” shall be substituted;

(c) in clause (i), after the words “for the instruction of drivers of motor vehicles”, the brackets and words “(including the registration of such schools or establishments)” shall be inserted.

10. *Amendment of section 25.*—In section 25 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

“Provided that where a motor vehicle so registered is a chassis to which a body has not been attached and the same is detained in a workshop beyond

the said period of one month for being fitted with a body, the period may, on payment of such fees, if any, as may be prescribed, be extended by such further period or periods so, however, that the total period of such temporary registration may not exceed, in any case, three months.”

11. *Amendment of section 27.*—In section 27 of the principal Act, after the words “particulars of any previous registration of the vehicle”, the words “or furnishes inaccurate particulars in the application for registration of such vehicle” shall be inserted.

12. *Omission of section 29A.*—Section 29A of the principal Act shall be omitted.

13. *Insertion of new section 31.*—In the principal Act, after section 31, the following section shall be inserted, namely:—

“31A. *Special provisionse regarding motor vehicles subject to hire purchas agreement.*—(1) Where an application for registration of a motor vehicle which is held under a hire-purchase agreement is made, the registering authority shall make an entry in the certificate of registration regarding the existence of the said agreement.

(2) When the ownership of any motor vehicle registered under this chapter is transferred and the transferee enters into a hire-purchase agreement with any person, the registering authority shall, on receipt of an application from the parties to that agreement, make an entry as to the existence of such hire-purchase agreement in the certificate of registration.

(3) Any entry made under sub-section (1) or sub-section (2), may be cancelled by the registering authority on proof of the termination of the hire-purchase agreement by the parties concerned.

(4) No entry regarding the transfer of ownership of any motor vehicle which is held under a hire-purchase agreement shall be made in the certificate of registration except with the written consent of the person whose name has been specified in the certificate of registration as the person with whom the registered owner has entered into a hire-purchase agreement.

(5) Where the person whose name has been specified in the certificate of registration as the person with whom the register owner has entered into a hire-purchase agreement, satisfies the registering authority that he has taken possession of the vehicle owing to the default of the registered owner under the provisions of the agreement and that the registered owner refuses to deliver the certificate of registration or has absconded, such authority may, after giving the registered owner an opportunity to make such representation as he may wish to make (by sending to him a notice by registered post acknowledgement due at his address entered in the certificate of registration) and notwithstanding that the certificate of registration is not produced before it, cancel the certificate and issue a duplicate thereof to the person aforesaid.

(6) The provisions of sub-sections (1) to (5) shall, so far as may be, apply to a motor vehicle which is subject to hypothecation as they apply to any motor vehicle which is held under a hire-purchase agreement”.

14. *Amendment of section 36.*—In section 36 of the Principal Act, in sub-section (3), for the words “in excess of that”, the words “different from that” shall be substituted.

15. *Amendment of section 38.*—In section 38 of the principal Act, to sub-section (2), the following proviso shall be added, namely:—

“Provided that this sub-section shall, in respect of a certificate of fitness relating to a new transport vehicle registered for the first time and not plying in hilly areas, have effect as if for the words “six months”, the words “one year” were substituted.

*Explanation.*—In this sub-section, the expression “hilly areas” means such areas as the State Government may, having regard to the elevation and topography, by notification in the Official Gazette, declare to be hilly areas.”

16. *Amendment of section 41.*—In section 41 of the principal Act, in sub-section (2),—

(a) in clause (e), for the brackets and figure “(3)”, the brackets and figure “(2)” shall be substituted;

(b) in clause (f), after the words “alteration of certificates of registration”, the words “for making or cancelling an endorsement in respect of an agreement of hire-purchase or hypothecation on a certificate of registration,” shall be inserted.

17. *Amendment of section 42.*—In section 42 of the principal Act,—

(a) in sub-section (1), after the words “any public place”, the brackets and words “(whether or not such vehicle is actually carrying any passenger or goods)” shall be inserted;

(b) in sub-section (3),—

(i) clause (ee) shall be omitted;

(ii) after clause (f), the following clause shall be inserted, namely:—

“(ff) to any transport vehicle used by in person who manufactures or deals in motor vehicles or builds bodies for attachment to chassis, solely for such purposes and in accordance with such conditions as the Central Government may, by notification in the Official Gazette, specify in this behalf;”

(iii) in clause (i), the words “except as may otherwise be prescribed,” shall be omitted;

(iv) after clause (i), the following clauses shall be inserted, namely.—

“(j) subject to such conditions as the Central Government may, by notification in the Official Gazette, specify, to any transport vehicle purchased in one State and proceeding to a place, situated in any other State, without carrying any passenger, or goods;

(k) to any transport vehicle which has been temporarily registered under section 25, while proceeding empty to any place for the purpose of registration of the vehicle under section 25;

(l) to any transport vehicle used for such purpose (other than plying for hire or reward) as the Central Government may, by notification in the Official Gazette, specify; or

- (m) to any transport vehicle which, owing to flood, earthquake or any other natural calamity, is required to be diverted through many other route, whether within or outside the State, with a view to enabling it to reach its destination;
- (n) to any transport vehicle while proceeding empty to any place for purpose of repair."

**18. Amendment of section 43.**—In section 43 of the principal Act, in sub-section (1),—

- (a) in sub-clause (i), after the words "the fixing of fares and freights", the brackets and words "(including the maximum and minimum in respect thereof)" shall be inserted;
- (b) in sub-clause (iii), after the words "existing permits" the words, brackets and figures "are not renewed in pursuance of the provisions of sub-section (1D) of section 68F, or" shall be inserted.

**19. Amendment of section 44.**—In section 44 of the principal Act, in sub-section (2),—

- (a) for the words "and such other officials and non-officials, not being less than two" the words "and, in the case of a State Transport Authority, such other officials and non-officials, not being less than two, and, in the case of a Regional Transport Authority, such other persons (whether officials or not), not being less than two," shall be substituted;

- (b) for the words "Provided that", the following shall be substituted, namely:—

"Provided that nothing in this section shall prevent any of the members of the State Transport Authority or the Regional Transport Authority, as the case may be, to preside over a meeting of such Authority during the absence of the Chairman, notwithstanding that such member does not possess judicial experience:

Provided further that the State Government may—

- (i) where it considers necessary or expedient so to do, constitute Regional Transport Authority for any region so as to consist of only one member who shall be an official with judicial experience;
- (ii) by rules made in this behalf, provide for the transaction of business in the absence of the Chairman or any other member and specify the nature of business which, the circumstances under which, and the manner in which, business could be so transacted;

Provided also that"

**20. Amendment of Section 45.**—Section 45 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-sections shall be inserted, namely:—

- "(2) Notwithstanding any thing contained in sub-section (1), the State Government may, by notification in the Official Gazette, direct that in the case of any vehicle or vehicles proposed to be used in two or more regions lying in different States, the application under that sub-section shall be made to the State Transport Authority of the region in which the applicant resides or has his principal place of business.

- (3) Every applicant for the grant of a new permit under section 46 or section 54 shall deposit, by way of security, with his application an amount in such manner and at such rate not exceeding rupees two hundred per motor vehicles, as the State Government may, with reference to each class of vehicle by notification in the Official Gazette, specify.

- (4) The security furnished under sub-section (3) may be forfeited in whole or in part by the transport authority if it is satisfied that the application was made for the purpose of preventing the issue of a temporary permit under section 62 and the whole or part of it as has not been forfeited shall be refunded to the applicant, as soon as may be, after the disposal of the application:

Provides that no such forfeiture shall be made unless the transport authority has given the applicant a reasonable opportunity of being heard."

**21. Amendment of Section 46.**—In section 46 of the principal Act, in clause (c),—

- (a) for the word "services", wherever it occurs, the word "trips" shall be substituted;
- (b) the following *Explanation* shall be added at the end, namely:—

*'Explanation.*—For the purposes of this section, section 48 and section 57, "trip" means a single journey from one point to another, and every return journey shall be deemed to be a separate trip.'

**22. Amendment of Section 48.**—In section 48 of the principal Act,—

- (a) sub-section (2) shall be omitted;
- (b) in sub-section (3),—

- (i) for clause (i), the following clauses shall be substituted, namely:—

"(i) that the vehicle or vehicles shall be used only in a specified area, or on a specified route or routes;

(ia) that the service or any specified part thereof shall be commenced with effect from a specified date;"

- (ii) in clause (ii), for the words "services to be maintained", the words "trips to be provided" shall be substituted;

- (iii) to clause (xxi), the following proviso shall be added, namely:—

"Provided that the conditions specified in pursuance of clause (i) shall not be varied so as to alter the distance covered by the original route by more than 24 kilometres, and any variation within such limits shall be made only after the regional Transport Authority is satisfied that such variation will serve the public convenience and that it is not expedient to grant a separate permit in respect of the original route as so varied or any part thereof;"

**23. Amendment of section 51.**—In section 51 of the principal Act, in sub-section (2), after clause (ii), the following clause shall be inserted, namely:—

- "(iia) the maximum number of passengers, and the maximum weight of luggage that may be carried on any specified vehicle or on any vehicle of specified

type, either generally or on specific occasions or at specified times and seasons and the same is prominently marked on the vehicle;”.

**24. Amendment of section 57.**—In section 57 of the principal Act in sub-section (8), for the words “number of services above the specified maximum”, the words “number of trips above the specified maximum or by altering the route covered by it” shall be substituted.

**25. Amendment of section 58.**—In section 59 of the principal Act,—

(a) in sub-section (2),—

(i) in clause (a) of the proviso, for the words “sixty days”, the words “one hundred and twenty days” shall be substituted;

(ii) in clause (b) of the proviso, for the words “thirty days”, the words “sixty days” shall be substituted;

(b) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) Where a permit has been renewed under this section after the expiry of the period thereof, such renewal shall have effect from the date of such expiry irrespective of whether or not a temporary permit has been granted under clause (d) of section 62, and where a temporary permit has been granted, the fee paid in respect of such temporary permit shall be refunded.”.

**26. Amendment of section 59.**—In section 59 of the principal Act,—

(a) in sub-section (2), for the words “replace by another vehicle of the same nature and capacity any vehicle covered by the permit”, the words “replace any vehicle covered by the permit by any other vehicle of the same nature” shall be substituted;

(b) in sub-section (3),—

(i) in clause (a), for the words “permit relates”, the words and figures “permit relates carry valid certificates of fitness issued under section 38 and ” shall be substituted;

(ii) in clause (c), the words “maximum or minimum” shall be omitted;

(iii) in clause (d), for the words and figures “section 72”, the words and figures “section 5 or section 72” shall be substituted.

**27. Amendment of section 60.**—In section 60 of the principal Act,—

(a) after sub-section (1A), the following sub-section shall be inserted, namely:—

“(1B) The transport authority may exercise the powers conferred on it under sub-sections (1) and (1A) in relation to a permit granted by any authority or person to whom power in its behalf has been delegated under sub-section (5) of section 44 as if the said permit was a permit granted by the transport authority.”;

(b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) The powers exercisable under sub-section (1) or sub-section (1A) (other than the power to cancel a permit) by the transport authority which granted the permit may be exercised by any authority or person to whom such

powers have been delegated under sub-section (5) of section 44:

Provided that—

(i) no such authority or person shall pass an order suspending the permit for a period exceeding one month or reducing the period thereof by more than one month; and

(ii) any such order shall be placed within the said period of one month before the transport authority who may vacate the order or extend the said period of one month where it has not expired or cancel the permit or take action under sub-section (3), as it may deem fit.”;

(c) after sub-section (3), the following sub-section shall be inserted, namely:—

“(4) The powers exercisable by the transport authority under sub-section (3) may, where an appeal has been preferred under section 64, be exercised also by the appellate authority.”.

**28. Amendment of section 62.**—Section 62 of the principal Act shall be re-numbered as sub-section (1) thereof, and after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) Notwithstanding anything contained in sub-section (1), a temporary permit may be granted thereunder in respect of any route or area where—

(i) no permit could be issued under section 48 section 51 or section 54 in respect of that route or area by reason of an order of a court or other competent authority restraining the issue of the same, for a period not exceeding the period for which the issue of the permit has been so restrained; or

(ii) as a result of the suspension is a court or other competent authority of the permit of any vehicle in respect of that route or area, there is no transport vehicle of the same class with a valid permit in respect of that route or area, or there is no adequate number of such vehicle in respect of that route or area, for a period not exceeding the period of such suspension:

Provided that the number of transport vehicles in respect of which the temporary permit is so granted shall not exceed the number of vehicles in respect of which the issue of a permit has been restrained or as the case may be, the permit has been suspended.”.

**29. Amendment of section 63.**—In section 63 of the principal Act,—

(a) to sub-section (1), the following further proviso shall be added, namely:—

“Provided further that where both the starting point and the terminal point of a route are situate within the same State, but part of such route lies in any other State and the length of such part does not exceed sixteen kilometres, the permit shall be valid in the other State in respect of that part of the route which is in that other State notwithstanding that such permit has not been countersigned by the State Transport Authority or the Regional Transport Authority of that other State.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), a permit granted or counter-signed by a State Transport Authority shall be valid in the whole State or in such regions within the State as may be specified in the permit";

(c) in the proviso to sub-section (3), after the words "arrived at between the States", the following shall be inserted, namely:—

"after complying with the requirements of sub-section (3A), or for the grant of counter-signatures of permits in pursuances of any direction issued by the Commission under clause (c) of sub-section (2) of section 63A";

(d) after sub-section (3), the following sub-section shall be inserted, namely:—

"(3A) Every proposal to enter into an agreement between the States referred to in the proviso to sub-section (3) and every proposal in such agreement to fix the number of permits which is proposed to be granted or counter-signed in respect of each route or area, shall be published by each of the State Governments concerned in the Official Gazette together with a notice of the date before which representations in connection therewith may be submitted, and the date, not being less than thirty days from the date of such publication, on which, and the authority by which, and the time and place at which, the proposal and any representations received in connection therewith will be considered:

Provided that no person, association or authority, other than those mentioned hereunder, shall have a right to make such representation, namely:—

- (i) any person already providing passenger or goods transport facilities by any means in the proposed area or along or near the proposed route;
- (ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government;
- (iii) any local authority or police authority within whose jurisdiction any part of the proposed area or route lies.

(3B) Every agreement arrived at between the States shall, in so far as it relates to the grant of counter-signature of permits, be published in the Official Gazette by each of the State concerned and the State Transport Authority of the State and the Regional Transport Authority concerned shall give effect to it";

(e) after sub-section (6), the following sub-sections shall be inserted, namely:—

"(7) Notwithstanding anything contained in sub-section (1) but subject to any rules that may be made under this Act, any State Transport Authority may, for the purpose of promoting tourism, grant in respect of tourist vehicles such number of permits valid for the whole or any part of India as the Central Government may in respect of that State, specify in this behalf, and the provisions of sections 49, 50, 51, 57, 59, 59A, 60,

61 and 64 shall, as far as may be, apply in relation to such permits.

(8) Every applicant for a permit under sub-section (7) shall deposit, by way of security, in such manner and such amount, not exceeding rupees two thousand per motor vehicle, as the Central Government may with reference to each class of vehicle, by notification in the Official Gazette, specify, and such security shall be refunded wholly or in part to the applicant if his applications for permit has not been granted, or, as the case may be, granted for a lesser number of vehicles than what was applied for.

(9) Any amount deposited by way of security under sub-section (8) may, at any time, be forfeited in whole or in part by the State Transport Authority if it is satisfied after making such inquiry as it thinks fit that—

- (a) the permit was obtained by fraud or misrepresentation, or
- (b) the holder of the permit has failed without reasonable cause to use the vehicle or vehicles for the purpose for which the permit was granted, or
- (c) the holder of the permit has committed a breach of any condition of the permit, or
- (d) the holder of the permit has used or caused it to be used in any manner not authorised by the permit:

Provided that no such forfeiture shall be made unless the State Transport Authority has given the permit-holder a reasonable opportunity of being heard.

(10) The following shall be conditions if every permit granted under sub-section (7) namely:—

- (i) every motor vehicle in respect of which such permit is granted shall conform to such description, requirement regarding the seating capacity, standards of comforts, amenities and other matters, as the Central Government may specify in this behalf;
- (ii) every such motor vehicle shall be driven by a person having such qualifications and satisfying such conditions as may be specified by the Central Government and
- (iii) such other conditions as may be prescribed by the Central Government."

30. *Amendment of section 63A.*—In section 63A of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

"(2A) If any direction issued by the State Government under section 43 is repugnant to any direction made by the Commission under clause (c) of sub-section (2), then, the direction of the Commission, whether issued before or after the direction issued by the State Government, shall prevail and the direction made by the State Government shall, to the extent of the repugnancy, be of no effect."

31. *Insertion of new section 63BB.*—After section 63B of the principal Act, the following section shall be inserted, namely:—

"63BB. *Appeal against decision direction or order under section 63A.*—(1) Any person or authority (including Government) aggrieved by the decision, direction or order



of the Commission under clause (b) or clause (c) or clause (d) or clause (e) of sub-section (2) of section 63A may, within sixty days from the date of the communication to him or it, of such decision, direction or order, as the case may be, appeal to the authority specified by the Central Government under clause (h) of section 63C, which shall decide the appeal after giving the person or the authority an opportunity of being heard and pass such order thereon as it may deem fit and such order shall be final:

Provided that the authority aforesaid may entertain an appeal after the expiry of the said of sixty days if it is satisfied that the appellant was prevented by sufficient cause from preferring the appeal in time.

(2) Every appeal under sub-section (1) shall be preferred in such manner and accompanied by such fee as may be prescribed by the Central Government."

32. *Amendment of section 63C.*—In section 63C of the principal Act, for clause (h), the following clause shall be substituted, namely:—

"(h) the authority to which, the manner in which and the fees on payment of which an appeal against any decision, direction or order of the Commission may be preferred."

33. *Amendment section 64.*—Section 64 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(a) in sub-section (1) as so re-numbered,—

(i) after clause (h), the following clause shall be inserted, namely:—

"(hh) aggrieved by an order of forfeiture passed under sub-section (4) of section 45 or under sub-section (9) of section 63, or";

(ii) for the words "the prescribed authority who shall give such person and the original authority an opportunity of being heard"; the words, brackets and figure "the State Transport Appellate Tribunal constituted under sub-section (2), who shall, after giving such person and the original authority an opportunity of being heard, give a decision thereon which shall be final," shall be substituted;

(b) after sub-section (1) as so re-numbered, the following sub-sections and *Explanation* shall be inserted, namely:—

"(2) The State Government shall constitute for the State a State Transport Appellate Tribunal which shall consist of a whole-time judicial officer not below the rank of a District Judge:

Provided that in relation to a Union territory the Tribunal may consist of the Administrator of that territory or any officer who has judicial experience.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), every appeal pending at the commencement of the Motor Vehicles (Amendment) Act, 1969, shall be proceeded with and disposed of as if that Act had not been passed.

*Explanation*—For the removal of doubts, it is hereby declared that when any order is made by the State Transport Authority or the Regional Transport Authority in pursuance of a direction issued by the Commission under clause (c) of sub-section (2) of section 62A and any person feels aggrieved by such order on the ground that it is not in consonance with such direction, he may appeal under sub-section (1) to the State Transport Appellate Tribunal against such order but not against the direction so issued."

34. *Amendment of section 64A.*—In section 64A of the principal Act,—

(a) for the words "State Transport Authority", wherever they occur, the words "State Transport Appellate Tribunal" shall be substituted;

(b) for the words "Regional Transport Authority", wherever they occur, the words "State Transport Authority or Regional Transport Authority" shall be substituted;

(c) after the words "as it deems fit", the words "and every such order shall be final" shall be inserted.

35. *Amendment of section 65.*—In section 65 of the principal Act, in sub-section (1),—

(a) clauses (b), for the words "nine hours", the words "eight hours" shall be substituted;

(b) in clause (c), for the words "fifty-four hours", the words "forty-eight hours" shall be substituted.

36. *Insertion of new section 66A.*—After section 66 of the principal Act, the following section shall be inserted, namely:—

"66A. *Agent or canvasser to obtain licence.*—(1) No person shall engage himself—

(i) as an agent or canvasser, in the sale of tickets for travel by public service vehicles or in otherwise soliciting custom for such vehicles, or

(ii) as an agent in the business of collecting, forwarding or distributing goods carried by public carriers,

unless he has obtained a licence from such authority and subject to such conditions as may be prescribed by the State Government.

(2) The conditions referred to in sub-section (1) may include all or any of the following matters, namely:—

(a) the period for which a licence may be granted or renewed;

(b) the fee payable for the issue for renewal of the licence;

(c) the deposit of security—

(i) of a sum not exceeding rupees five thousand in the case of an agent in the business of collecting, forwarding or distributing goods carried by public carriers.

(ii) of a sum not exceeding rupees five hundred in the case of any other agent or canvasser,

and the circumstances under which the security may be forfeited;

(d) the provision by the agent of insurance of goods in transit;

(e) the authority by which and the circumstances under which the licence may be suspended or revoked;

(f) such other conditions as may be prescribed by the State Government."

**37. Amendment of section 68.**—In section 68 of the principal Act, in sub-section (2),—

(a) after clause (a), the following clause shall be inserted, namely:—

"(aa) the conduct of business by any such authority in the absence of any member (including the Chairman) thereof and the nature of business which, the circumstances under which and the manner in which, business could be so conducted;"

(b) after clause (c), the following clause shall be inserted, namely:—

"(cc) the manner in which and the time within which every application for a stage carriage permit or a public carrier's permit shall be published, as required by sub-section (3) of section 57, and the circumstances under which and the fees on payment of which copies of such applications may be granted;"

(c) in clause (ww), for the words "forwarding and distributing of", the words "or forwarding and distributing" shall be substituted.

**38. Amendment of section 68A.**—In section 68A of the principal Act, in clause (b),—

(a) sub-clause (iii) shall be omitted;

(b) in sub-clause (iv), for the words "the State Government", the words "the Central Government or one or more State Governments, or by the Central Government and one or more State Governments" shall be substituted.

**39. Amendment of section 68D.**—In section 68D of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) On the publication of any scheme in the Official Gazette and in not less than one newspaper in regional language circulating in the area or route which is proposed to be covered by such scheme,—

(i) any person already providing transport facilities by any means along or near the area or route proposed to be covered by the scheme;

(ii) any association representing persons interested in the provision of road transport facilities recognised in this behalf by the State Government; and

(iii) any local authority or police authority within whose jurisdiction any part of the area or route proposed to be covered by the scheme lies,

may, within thirty days from the date of its publication in the Official Gazette, file objections to it before the State Government."

**40. Amendment of section 68E.**—Section 68E of the principal Act shall be re-numbered as sub-section (1) thereof, and,—

(i) in sub-section (1) as so re-numbered, for the words "proposed to be modified as if the modification proposed were a separate scheme", the following shall be substituted, namely:—

"proposed to be cancelled or modified as if the proposal were a separate scheme:

Provided that the State Transport Undertaking may, with the previous approval of the

State Government, modify without following the procedure laid down in section 68C and section 68D, any such scheme relating to any route or area in respect of which the road transport services are run and operated by the State Transport Undertaking to the complete exclusion of other persons in respect of the following matters, namely:—

(a) increase in the number of vehicles or the number or trips;

(b) change in the type of vehicles without reducing the seating capacity;

(c) extension of the route or area, without reducing the frequency of the service; or

(d) alteration of the time-table without reducing the frequency of the service";

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

"(2) Notwithstanding anything contained in sub-section (1), the State Government may, at any time, if it considers necessary in the public interest so to do, modify any scheme published under sub-section (3) of section 68D, after giving,—

(i) the State Transport Undertaking, and

(ii) any other person who, in the opinion of the State Government, is likely to be affected by the proposed modification,

an opportunity of being heard in respect of the proposed modification."

**41. Amendment of section 68F.**—In section 68F of the principal Act,—

(a) in sub-section (1),—

(i) for the words and figures "in the manner specified in Chapter IV", the words "in such manner as may be prescribed by the State Government in this behalf" shall be substituted;

(ii) for the words "Regional Transport Authority", the words "State Transport Authority in any case where the said area or route lies in more than one region and the Regional Transport Authority in any other case" shall be substituted;

(b) after sub-section (1), the following sub-sections shall be inserted, namely:—

"(1A) Where any scheme has been published by a State Transport Undertaking under section 68C that Undertaking may apply for a temporary permit, in respect of any area or route or portion thereof specified in the said scheme, for the period intervening between the date of publication of the scheme and the date of publication of the approved or modified scheme, and where such application is made, the State Transport Authority or the Regional Transport Authority, as the case may be, shall, if it is satisfied that it is necessary to increase, in the public interest, the number of vehicles operating in such area or route or portion thereof, issue the temporary permit prayed for by the State Transport Undertaking.

58

(1B) A temporary permit issued in pursuance of the provisions of sub-section (1A) shall be effective,—

- (i) if the scheme is published under sub-section (3) of section 68D, until the grant of the permit, to the State Transport Undertaking under sub-section (1), or
- (ii) if the scheme is not published under sub-section (3) of section 68D, until the expiration of the one week from the date on which the order sub-section (2) of section 68D is made.

(1C) If no application for a temporary permit is made under sub-section (1A), the State Transport Authority or the Regional Transport Authority, as the case may be, may grant, subject to such condition as it may think fit, temporary permit to any person in respect of the area or route or portion thereof specified in the scheme and the permit so granted shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route or portion thereof.

(1D) Save as otherwise provided in sub-section (1A) or sub-section (1C), no permit shall be granted or renewed during the period intervening between the date of publication, under section 68C of any scheme and the date of publication of the approved or modified scheme, in favour of any person for any class of road transport service in relation to an area or route or portion thereof covered by such scheme:

Provided that where the period of operation of a permit in relation to any area route or portion thereof specified in a scheme published under section 68C expires after such publication, such permit may be renewed for a limited period, but the permit so renewed shall cease to be effective on the publication of the scheme under sub-section (3) of section 68D.”;

(c) in sub-section (2),—

(i) for the words “the Regional Transport Authority”, the words “the State Transport Authority or as the case may be, the Regional Transport Authority concerned” shall be substituted;

(ii) in clause (a), for the words “the renewal of any other permit”, the words “the grant or renewal of any other permit or reject any such application as may be pending” shall be substituted;

(d) in sub-section (3), for the words “the regional Transport Authority”, the words “the State Transport Authority or any Regional Transport Authority” shall be substituted.

42. *Insertion of new section 68.*—After section 68F of the principal Act, the following section shall be inserted, namely:

“68FF.—*Restriction on grant of permits in respect of a notified area or notified route.*—Where a scheme has been published under sub-section (3) of section 68D in respect of any notified area or notified route, the State Transport Authority or the Regional Transport Authority, as the case may

be, shall not grant any permit except in accordance with the provisions of the scheme:

Provided that where no application for a permit has been made by the State Transport Undertaking in respect of any notified area or notified route in pursuance of an approved scheme, the State Transport Authority or the Regional Transport Authority, as the case may be, may grant temporary permits to any person in respect of such notified area or notified route subject to the condition that such permit shall cease to be effective on the issue of a permit to the State Transport Undertaking in respect of that area or route.”

43. *Amendment of section 68G.*—In section 68G of the principal Act, in sub-section (2), for the words “the Regional Transport Authority”, the words “the State Transport Authority or the Regional Transport Authority, as the case may be”, shall be substituted.

44. *Insertion of new section 68HH.*—After section 68H of the principal Act, the following section shall be inserted, namely:—

“68HH. *Disposal of articles found in vehicles.*—

Where any article found in any transport vehicle operated by the State Transport Undertaking is not claimed by its owner within the prescribed period, the State Transport Undertaking may sell the article in the prescribed manner and the sale proceeds thereof, after deducting the costs incidental to sale, shall be paid to the owner on demand.”

45. *Amendment of section 68I.*—In section 68I of the principal Act, in sub-section (2), after clause c, the following clauses shall be inserted, namely:—

“(cc) the manner in which application under sub-section (1) of section 68F may be made;

(ccc) the period within which the owner may claim an article found left in any transport vehicle under section 68HH and the manner of sale of such article;”

46. *Insertion of new section 68J.*—In Chapter IVA of the principal Act, after section 68I, the following section shall be inserted, namely:—

“68J. *Certain Powers of State Government exercisable by the Central Government.*—The powers under conferred on the State Government this Chapter shall, in relation to a corporation or company owned or controlled by the Central Government or by the Central Government and one or more State Governments, be exercisable only by the Central Government in relation to an inter-State route or area.”

47. *Insertion of new section 69A.*—After section 69 of the principal Act, the following section shall be inserted, namely:—

“69A. *Vehicles to have right hand control.*—Every motor vehicle shall be so constructed as to have right hand steering control unless it is equipped with a mechanical or electrical signalling device of a prescribed nature.”

48. *Amendment of section 79.*—Section 79 of the principal Act shall be re-numbered as sub-section (1) thereof, and—

(i) in sub-section (1) as so re-numbered, after the words “driver of a motor vehicle”, the words “with a right hand steering control” shall be inserted; and

(ii) after sub-section (1) as so re-numbered, the following sub-section shall be inserted, namely:—

“(2) In the case of a motor vehicle with a left hand steering control, the signal of an intention to turn to the right or left or to stop shall be given by a mechanical or an electrical device of a prescribed nature affixed to the vehicle:

Provided that Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this sub-section for the purpose of plying in that area or route.”

49. *Amendment of section 80.*—To section 80 of the principal Act, the following proviso shall be added, namely:—

“Provided that Government may, having regard to the width and condition of the roads in any area or route, by notification in the Official Gazette, exempt, subject to such conditions as may be specified therein, any such motor vehicle or class of such motor vehicles from the operation of this section for the purpose of plying in that area or route.”

50. *Amendment of section 89.*—In section 89 of the principal Act, after the words “When any person is injured”, the words “or any property of a third party is damaged,” shall be inserted.

51. *Amendment of section 92.*—In section 92 of the principal Act, in sub-section (1A), the words “contiguous to it” shall be omitted.

52. *Amendment of section 93.*—In section 93 of the principal Act,—

(i) after clause (b), the following clause shall be inserted, namely:—

“(bb) “property” includes roads, bridges, culverts, causeways, trees, posts and mile-stones;”;

(ii) after clause (c), the following clause shall be inserted, namely:—

“(d) “third party” includes the Government.”

53. *Amendment of section 94.*—In section 94 of the principal Act, in sub-section (3), for the *Explanation*, the following *Explanation* shall be substituted, namely:—

“*Explanation.*—For the purposes of this sub-section, appropriate Government means the Central Government or the State Government, as the case may be, and—

(i) in relation to any corporation or company owned by the Central Government or any State Government, means the Central Government or that State Government;

(ii) in relation to any corporation or company owned by the Central Government and one or more State Governments, means the Central Government;

(iii) in relation to any other State Transport Undertaking or any local authority, means that Government which has control over that Undertaking or authority.”

54. *Amendment of section 95.*—In section 95 of the principal Act,—

(a) In sub-section (1),—

(i) for clause (b), the following clause shall be substituted, namely:—

“(b) insures the person or classes of persons specified in the policy to the extent specified in sub-section (2)—

(i) against any liability which may be incurred by him in respect of the death of or bodily injury to any person or damage to any property of a third party caused by or arising out of the use of the vehicle in a public place;

(ii) against the death of or bodily injury to any passenger of a public service vehicle caused by or arising out of the use of the vehicle in a public place;”;

(ii) the following *Explanation* shall be added at the end, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that the death of or bodily injury to any person or damage to any property of a third party shall be deemed to have been caused by or to have arisen out of, the use of a vehicle in a public place notwithstanding that the person who is dead or injured or the property which is damaged was not in a public place at the time of the accident if the act or omission which led to the accident, occurred in a public place.”;

(b) in sub-section (2),—

(i) in clause (a), for the word “twenty”, the word “fifty” shall be substituted;

(ii) for clauses (b) and (c), the following clauses shall be substituted, namely:—

“(b) where the vehicle is a vehicle in which passengers are carried for hire or reward or by reason of or in pursuance of a contract of employment.—

(i) in respect of persons other than passengers carried for hire or reward, a limit of fifty thousand rupees in all;

(ii) in respect of passengers,—

(1) a limit of fifty thousand rupees in all where the vehicle is registered to carry not more than thirty passengers;

(2) a limit of seventy-five thousand rupees in all where the vehicle is registered to carry more than thirty but not more than sixty passengers;

(3) a limit of one lakh rupees in all where the vehicle registered to carry more than sixty passengers; and

(4) subject to the limits aforesaid ten thousand rupees for each individual passenger where the vehicle is a motor cab, and five thousand rupees for each individual passenger;

- (c) save as provided in clause (d), where the vehicle is a vehicle of any other class, the amount of liability incurred;
- (d) irrespective of the class of the vehicle, a limit of rupees two thousand in all in respect of damage to any property of a third party."

in any other case;

**55. Insertion of new section 95AA.**—After section 95A of the principal Act, the following section shall be inserted, namely:—

"95AA. *Security to be deposited by insurers.*—(1) In addition to the deposits required to be made under section 7 of the Insurance Act, 1938 (4 of 1938), every insurer who is competent to issue a policy of insurance in accordance with this Chapter, shall deposit and keep deposited with the Reserve Bank of India or the State Bank of India, a sum of rupees thirty thousand as security for the due discharge of any liability covered by a policy of insurance issued in accordance with the provisions of this Chapter.

- (2) Any sum deposited under sub-section (1) shall be deemed to part of the assets of the insurer but shall not be susceptible of any assignment or charge nor shall it be liable to any attachment in execution of any decree except for meeting the claims arising in respect of a policy of insurance issued after complying with the requirements of this Chapter.

- (3) Where, on an application made to it in this behalf, any Court or Claims Tribunal which has made an award for compensation under this Act, is satisfied—

- (i) that the applicant has executed all other remedies open to him to recover his dues from the insurer, or

- (ii) that the award has been made after the insurer has gone into liquidation,

it may direct the payment of such compensation from out of the sum deposited under sub-section (1):

Provided that in the case of the insolvency of the insurer—

- (a) such payment shall not be made until all claims under this Act against the insurer have been settled; and

- (b) payment so made shall be proportionate to the amount of compensation allowed in each case."

**56. Insertion of new section 103A.**—After section 103 of the principal Act, the following section shall be inserted, namely:—

"103A. *Transfer of certificate of insurance.*—(1) where a person in whose favour the certificate of insurance has been issued in accordance with the provisions of this Chapter proposes to transfer to another person the ownership of the motor vehicle in respect of which such insurance was taken together with the policy of insurance relating thereto, he may apply in the prescribed form to the insurer for the transfer of the certificate of insurance and the policy described in the certificate in favour of the person to whom the motor vehicle is proposed to be transferred, and if within fifteen days of the re-receipt of such application by the insurer the insurer has not intimated the insured and such other person his refusal to transfer the

certificate and the policy to the other person, the certificate of insurance and the policy described in the certificate shall be deemed to have been transferred in favour of the person to whom the motor vehicle is transferred with effect from the date of its transfer.

- (2) The insurer to whom any application has been made under sub-section (1) may refuse to transfer to the other person the certificate of insurance and the policy described in that certificate if he considers it necessary so to do, having regard to—

- (a) the previous conduct of the other person,—

- (i) as a driver of motor vehicles; or

- (ii) as a holder of the policy of insurance in respect of any motor vehicle; or

- (b) any condition which may have been imposed in relation to any such policy held by the applicant; or

- (c) the rejection of any proposal made by such other person for the issue of a policy of insurance in respect of any motor vehicle owned or possessed by him.

- (3) Where the insurer has refused to transfer, in favour of the person to whom the motor vehicle has been transferred, the certificate of insurance and the policy described in that certificate, he shall refund to such transferee the amount, if any, which, under the terms of the policy, he would have had to refund to the insured for the unexpired term of such policy."

**57. Amendment of section 110.**—In section 110 of the principal Act, in sub-section (1), for the words "motor vehicles", the following words shall be substituted, namely:—

"motor vehicles, or damages to any property of a third party so arising, or both:

Provided that where such claim includes a claim for compensation in respect of damage to property exceeding rupees two thousand, the claimant may, at his option, refer the claim to a civil court for adjudication, and where a reference is so made, the Claims Tribunal shall have no jurisdiction to entertain any question relating to such claim."

**58. Amendment of Section 110A.**—In section 110A of the principal Act,—

- (a) in sub-section (1),—

- (i) in clause (b), for the words "by the legal representatives", the words "by all or any of the legal representatives" shall be substituted;

- (ii) in clause (c), for the words "or the legal representatives", the words "or all or any of the legal representatives" shall be substituted

- (iii) the following proviso shall be inserted at the end, namely:—

"Provided that where all the legal representatives of the deceased have not joined in any application such for compensation, the application shall be made on behalf of or for the benefit of all the legal representatives of the deceased and the legal representatives who have not so joined, shall be impleaded as respondents to the application."

- (b) in sub-section (3), for the words "sixty days", wherever they occur, the words "six months" shall be substituted.



59. *Insertion of new section 110A.*—After section 110A of the principal Act, the following section shall be inserted, namely:—

"110A. *Option regarding claims for compensation in certain cases.*—Notwithstanding anything contained in the Workmen's Compensation Act, 1923, (8 of 1923) where the death of or bodily injury to any person gives rise to a claim for compensation under this Act and also under the Workmen's Compensation Act, 1923, the person entitled to compensation may claim such compensation under either of those Acts but not under both."

60. *Amendment of section 110B.*—In section 110B of the principal Act, after the words "the insurer", the words "or owner or driver of the vehicle involved in the accident or by all or any of them, as the case may be." shall be inserted.

61. *Amendment of section 110C.*—In section 110C of the principal Act, after sub-section (2), the following sub-section shall be inserted, namely:—

(2A) Where in the course of any inquiry, the Claims Tribunal is satisfied that—

- (i) there is collusion between the person making the claim and the person against whom the claim is made, or
- (ii) the person against whom the claim is made has failed to contest the claim,

it may, for reasons to be recorded by it in writing, direct that the insurer who may be liable in respect of such claim, shall be impleaded as a party to the proceeding and the insurer so impleaded shall thereupon have the right to contest the claim on all or any of the grounds that are available to the person against whom the claim has been made."

62. *Insertion of new sections 110CC and 110CCC.*—After section 110C of the principal Act, the following sections shall be inserted, namely:—

"110CC. *Award of interest where any claim is allowed.*—Where any Court or Claims Tribunal allows a claim for compensation made under this Chapter, such Court or Tribunal may direct that in addition to the amount of compensation simple interest shall also be paid at such rate and from such date not earlier than the date of making the claim as it may specify in this behalf.

110CCC. *Award of compensatory costs in certain cases.*—(1) Any Court or Claims Tribunal adjudicating upon any claim for compensation under this Act, may in any case where it is satisfied for reasons to be recorded by it in writing that—

- (i) the policy of insurance is void on the ground that it was obtained by representation of fact which was false in any material particular, or
- (ii) any party or insurer has put forward a false or vexatious claim or defence,

such Court or Tribunal may make an order for the payment, by the party who is guilty of mis-representation or by whom such claim or defence has been put forward, of special costs by way of compensation to the insurer or, as the case may be, to the party against whom, such claim or defence has been put forward.

(2) No Court or Claims Tribunal shall pass an order for special costs under sub-section (1) for any amount exceeding rupees one thousand.

(3) No person or insurer against whom an order has been made under this section shall, by reason thereof be exempted from any criminal liability in respect of such mis-representation, claim or defence as is referred to in sub-section (1).

(4) Any amount awarded by way of compensation under this section in respect of any mis-representation, claim or defence, shall be taken into account in any subsequent suit for damages for compensation in respect of such mis-representation, claim or defence."

63. *Amendment of section 110E.*—In section 110E of the principal Act, for the words "an insurer", the words "any person" shall be substituted.

64. *Amendment of section 111A.*—In section 111A of the principal Act, in clause (d), after the words "the manner in which", the words and brackets "and the fees (if any) on payment of which," shall be inserted.

65. *Insertion of new section 113A.*—After section 113 of the principal Act, the following section shall be inserted, namely:—

"113A. *Allowing unauthorised persons to drive vehicles.*—Whoever, being the owner or person in charge of a motor vehicle, cause, or permits, any person who does not satisfy the provisions of section 3 of section 4, to drive the vehicle shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to five hundred rupees, or with both."

66. *Amendment of section 115.*—In section 115 of the principal Act,—

(i) in sub-section (1), for the words "one hundred rupees", the following words shall be substituted, namely:—

"two hundred rupees, or, if having been previously convicted of an offence under this sub-section is again convicted of an offence under this sub-section, with fine which may extend to five hundred rupees";

(ii) in sub-section (2), for the words "two hundred rupees" the following words shall be substituted, namely:—

"three hundred rupees, or, if having been previously convicted of an offence under this sub-section is given convicted of an offence under this sub-section, with fine which may extend to five hundred rupees";

67. *Amendment of section 123.*—In section 123 of the principal Act, in sub-section (1),—

(i) after the words "for which the vehicle may be used", the words "or to the maximum number of passengers and maximum weight of luggage that may be carried on the vehicle" shall be inserted;

(ii) for the words "subsequent offence if Committed within three years of the Commission of a previous similar offence", the words "any second or subsequent offence" shall be substituted;

(iii) in the proviso, after the words "any such", the words "record or" shall be substituted.

68. *Insertion of new section 123A.*—After section 123 of the principal Act, the following section shall be inserted, namely:—

"123A. *Punishment of agents and canvassers without proper authority.*—Whoever engages himself as an agent or canvasser in contravention of the

51

provisions of section 66A or any rules made thereunder shall be punishable for the first offence with fine which may extend to one thousand rupees and for any second or subsequent offence with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both:

Provided that no court shall, except for reasons to be recorded by it in writing, impose a fine of less than five hundred rupees for any such second or subsequent offence."

69. *Amendment of section 124.*—In section 124 of the principal Act, for the words and figures "section 72 or of the conditions of any permit issued thereunder, or in contravention of any prohibition or restriction imposed under section 74 shall be punishable," the words and figures "section 72 or of the conditions prescribed under that section, or in contravention of any prohibition or restriction imposed under section 72 or section 74, shall be punishable" shall be substituted.

70. *Amendment of section 129A.*—To section 129A of the principal Act, the following proviso shall be added, namely:—

"Provided that where any such officer or person has reason to believe that a motor vehicle has been or is being used without the permit required by sub-section (1) of section 42, he may, instead of seizing the vehicle, seize the certificate of registration of the vehicle and shall issue an acknowledgement in respect thereof."

71. *Amendment of section 130.*—In section 130 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The court taking cognizance of an offence under this Act,—

(i) may, if the offence is an offence punishable with imprisonment under this Act, and

(ii) shall, in any other case,

state upon the summons to be served on the accused person that he—

(a) may appear by pleader and not in person, or

(b) may, by a specified date prior to the hearing of the charge plead guilty to the charge by registered letter and remit to the court such sum (not exceeding the maximum fine, that may be imposed for the offence) as the court may specify;

Provided that nothing in this sub-section shall apply to any offence specified in Part A of the Fifth Schedule."

72. *Insertion of new section 131A.*—After section 131 of the principal Act, the following section shall be inserted, namely:—

"131A. *Courts to send intimations about conviction.*—Every court by which any person holding a driving licence is convicted of an offence under this Act or of an offence in the commission of which a motor vehicle was used, shall send intimation to—

(a) the licensing authority which issued the driving licence, and

(b) the licensing authority by whom the licence was last renewed,

and every such intimation shall state the name and address of the holder of the licence, the licence number, the date of issue and renewal of the same, the nature of the offence,

the punishment awarded for the same and such other particulars as may be prescribed."

73. *Insertion of new section 132 A.*—In Chapter X of the principal Act, before section 133, the following section shall be inserted, namely:—

"132A. *Power to levy fee.*—Any rule which the Central Government or the State Government is empowered to make under this Act may, notwithstanding the absence of any express provision to that effect, provide for the levy of such fees in respect of applications, amendment of documents, issue of certificates, licences, permits, tests, endorsements, badges, plates, counter-signatures authorisation, supply of statistics or copies of documents or orders and for any other purpose or matter involving the rendering for any service by the officers or authorities under this Act or any rule made thereunder as may be considered necessary:

Provided that the Government may, if it necessary considers so to do, in the public interest, by general or soecial order, exempt any class of persons from the payment of any such fee either in part or in full."

74. *Amendment of section 133A.*—In section 133A of the principal Act, after sub-section (3), the following sub-section shall be inserted, namely:—

"(4) In addition to the powers that may be conferred on any officer of the Motor Vehicles Department under sub-section (3), such officer as may be empowered by the State Government in this behalf shall also have the power to,—

(a) make such examination and inquiry as he thinks fit in order to ascertain whether the provisions of this Act and the rules made thereunder are being observed;

(b) with such assistance if any, as he thinks fit, enter, inspect and search any premises which is in the occupation of a person who, he has reason to believe, has committed an offence under this Act or in which a motor vehicle in respect of which such offence has been committed is kept:

Provided that—

(i) any such search without a warrant shall be made only by an officer of the rank of a gazetted officer;

(ii) where the offence is punishable with fine only the search shall not be made after sunset and before sunrise;

(iii) where the search is made without a warrant the gazetted officer concerned shall record in writing the grounds for not obtaining a warrant and report to his immediate superior that such search has been made;

(c) examine any person and require the production of any register or other document maintained in pursuance of this Act, and take on the spot or otherwise statements of any person which he may consider necessary for carrying out the purpose of this Act;

(d) seize or take copies of any registers or documents or portions thereof as he may consider relevant in respect of an offence under this Act which he has reason to believe has been committed;

(e) launch prosecutions in respect of any offence under this Act and to take a bond for ensuring the attendance of the offender before any court;

(f) exercise such other powers as may be prescribed:

Provided that no person shall be compelled under this sub-section to answer any question or make any statement tending to incriminate himself.

(5) The provisions of the Code of Criminal Procedure, 1898 (5 of 1898), shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure under the authority of any warrant issued under section 98 of that Code."

75. *Amendment of section 134.*—In section 134 of the principal Act, after sub-section (1), the following sub-section shall be inserted, namely:—

"(1A) Notwithstanding anything contained in sub-section (1), if an application made by person for the renewal of permit has been rejected by the original authority and such person has preferred an appeal or made an application for revision under this Act against such rejection, the appellate authority or, as the case may be, the revisional authority may by order direct that the permit shall, notwithstanding the expiration of the term specified therein, continue to be valid until the appeal or application for revision is disposed of."

76. *Insertion of new section 135.*—After section 134 of the principal Act, the following section shall be inserted, namely:—

"135. *Repeal and savings.*—(1) The enactments specified in the Twelfth Schedule are hereby repealed to the extent mentioned therein.

(2) Notwithstanding the repeal of any enactment by this section,—

(a) any notification, rule, regulation, order or notice issued, or any appointment or declaration made, or any licence, permission, or exemption granted, or any confiscation made, or any penalty or fine imposed, or any forfeiture, cancellation or discharge of any bond ordered, or any other thing done, or any other action taken under the repealed enactment, shall, so far as it is not inconsistent with the provisions of this Act, be deemed to have been done or taken under the corresponding provision of this Act;

(b) any document referring to any enactment hereby repealed, or to any provision thereof, shall be construed as referring to this Act or to the corresponding provision of this Act.

(3) Any penalty payable under any repealed enactment may be recovered in the manner provided by or under this Act but without prejudice to any action already taken for the recovery of such penalty under the repealed enactment.

(4) The mention of particular matters in this section shall not be held to prejudice or affect the general application of section 6 of the General Clauses Act, 1897 (10 of 1897), with regard to the effect of repeals."

77. *Amendment of First Schedule.*—In the First Schedule to the principal Act,—

(a) in Form A, in Part III,—

(i) in paragraph (b), after the words "with each eye", the following brackets and words shall be inserted, namely:—

"(or if you have held a licence to drive a motor vehicle for a period of not less than five

years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye)";

(ii) in paragraph (f), after the words "unable to hear", the brackets and words "(and if the application is for driving a light motor vehicle, with or without hearing aid)" shall be inserted;

(b) in Form AA, for the words "I hereby", the following words "I, Shri/Shrimati/Kumari . . . . . hereby" shall be substituted

(c) in Form B,—

(i) below the heading "Form of application for the renewal of driving licence" the figures "I" shall be inserted;

(ii) for the words "I hereby apply", the words "I, Shri/Shrimati/Kumari . . . . . hereby apply" shall be substituted

(iii) for the words beginning with "I hereby declare" and ending with "danger to the public", the following figures, words, brackets and letters shall be substituted, namely:—

## II

*Declaration as to physical fitness of the applicant.*  
(The applicant is required to answer "yes" or "no" in the space provided opposite each question.)

(a) Do you suffer from epilepsy, or from sudden attacks of disability, giddiness or fainting?

(b) Are you able to distinguish with each eye (or if you have held a licence to drive a motor vehicle for a period of not less than five years and if you have lost sight of one eye after the said period of five years and if the application is for driving a light motor vehicle, other than a transport vehicle, fitted with, an outside mirror on the steering wheel side with one eye), at a distance of 25 metres in good day light (with glasses, if worn), a motor car number plate containing seven letters and figures?

(c) Have you lost either hand or foot or are you suffering from any defect in movement, control or muscular power of either arm or leg?

(d) Can you readily distinguish pigimentary colours red and green?

(e) Do you suffer from night blindness?

(f) Are you so deaf as to be unable to hear (and if you are an applicant for the renewal of a driving licence in respect of light motor vehicle with or without hearing-aid) the ordinary sound signals?

(g) Do you suffer from any other disease or disability likely to cause your driving of a motor vehicle to be a source of danger to the public?

I declare that to the best of my knowledge and belief, the particulars given in Section I and the declaration made in Section II hereof are true.

NOTE 1.—An applicant who answer "yes" to any of the questions (a), (c), (e), (f) and (g) or "no" to either of the questions (b) and (d) should amplify his answer with full particulars and may be required to give further information relating thereto.

NOTE 2.—An applicant who answers "yes" to questions (b), (c) and (d) in the declaration and "no" to the

other questions may claim to be subjected to a test as to his competency to drive vehicle of a specified class or classes.

NOTE 3.—An application for renewal of a driving licence to drive as a paid employee or to drive a transport vehicle or where in any other case the original licence was issued on production of a medical certificate, shall be accompanied by a medical certificate in Form C.;

(d) in Form C, in sub-paragraph (f) of paragraph 4, after the word "hearing", the brackets and words "(and in the case of an applicant for a licence to drive a light motor vehicle, with or without hearing-aid)" shall be inserted;

(e) in Form D,—

(i) for the expression "son/daughter of (father's name)", the expression "wife/son/daughter of" shall be substituted;

(ii) for the words "He is", the expression "He/She is" shall be substituted;

(f) in Form E,—

(i) in item 1, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(ii) after item 7, the following item shall be inserted, namely:—

"7A. Cubic capacity.....";

(iii) after item 10, the following item shall be inserted, namely:—

"10A. Fuel used in the engine.....";

(iv) for item 15, the following item shall be substituted, namely:—

"15. Maximum laden weight—

(a) as certified by the manufacturer.... Kgms.

(b) to be registered..... Kgms.";

(v) the Explanation shall be omitted;

(vi) for the Note, the following Note shall be substituted, namely:—

"NOTE.—The motor vehicle above described is—

(i) subject to a hire-purchase agreement with....;

(ii) subject to a hypothecation in favour of.....;

(iii) not held under hire-purchases agreement or subject to any mortgage.

(Strike out whatever is not applicable and if the motor vehicle is subject to hire-purchase agreement or hypothecation, obtain the signature of the hire-purchase company or the mortgagee, as the case may be.)";

(vii) for the words "Signature of the Hire-Purchase Company.", the following expression shall be substituted;—

Hire-Purchase Company.";

"Signature of—

Mortgagee.

(g) in Form G,—

(i) In line 8, for the words "or husband", the words and brackets "and husband (in the case of a married woman)" shall be substituted;

(ii) after item 8 the following item shall be inserted, namely:—

"7A. Fuel used in the engine.....";

(iii) after item 7, the following item shall be inserted, namely:—

"8A. Cubic capacity.....";

(iv) for item 12, the following item shall be substituted, namely:—

"12. Maximum laden weight—

(a) as certified by the manufacturer.... Kgms.

(b) as registered..... Kgms.";

(v) for the Note, the following Note shall be substituted, namely:—

"NOTE.—The motor vehicle above described is—

(i) subject to a hire-purchase agreement with.....;

(ii) subject to a hypothecation in favour of.....";

78. Amendment of Second Schedule.—In the Second Schedule to the principal Act,—

(i) in paragraph 4, after the words "with each eye", the following brackets and words shall be inserted, namely:—

"(or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied for a licence to drive a light motor vehicle, other than a transport vehicle, with one eye)";

(ii) in paragraph 5, after the word "hearing", the words "or in the case of a person who had applied for a licence to drive a light motor vehicle, with a or without hearing-aid" shall be inserted.

79. Substitution of Third Schedule.—For the Third Schedule to the principal Act, the following Schedule shall be substituted, namely:—

### "THE THIRD SCHEDULE

[See sections 7(6) and 17(6)]

#### TEST OF COMPETENCE TO DRIVE

##### PART I

The candidate shall satisfy the person conducting the test that he is able to—

- (1) start the engine of the vehicle;
- (2) move away straight ahead and at an angle, while at the same time engaging the first and intermediate gear until the top gear is reached;
- (3) change down to the lower gear quickly from the top gear when the traffic conditions warrant such change;
- (4) overtake, allow to be overtaken, meet or cover the path of other vehicles and take an appropriate course with proper caution giving appropriate signals;
- (5) turn right and left corners correctly;
- (6) stop the vehicle in an emergency and normally and in the latter case bring it to rest at an appropriate course of the road;
- (7) drive the vehicle backwards and whilst so doing enter a limited opening to the right and left;
- (8) cause the vehicle to face in the opposite direction by means of forward and reverse gears;
- (9) give by hand and by mechanical means (if fitted to the vehicle), or, in the case of a disabled driver for whom it is impracticable or undesirable to give signals by hand, by mechanical means in a clear and unmistakable manner, appropriate signals at appropriate times to indicate his intended actions;
- (10) act correctly and promptly on all signals given traffic signs Automatic traffic lights, traffic police or other authorised persons and take appropriate notice of signs given by other road users;
- (11) demonstrate general control of the vehicle by confident steering and smooth gear changing and bracking as and when necessary;
- (12) to change quickly to lower gear while driving down hill;
- (13) to stop and re-start the vehicle on a steep upward incline making proper use of the handbrake or of the throttle and the footbrake without any rolling back.

NOTE (i).—Requirements (7) and (8) are not applicable in the case of a motor cycle or a tri-cycle not equipped with means for reversing;

(ii) Requirements (7), (8) and (9) are not applicable in the case of invalid carriages.

## PART II

The candidate shall satisfy the person conducting the test that he is—

- (1) cognizant of the provisions of sections 81, 82, 83, 84 and 85 and of the Tenth Schedule;
- (2) conversant with the general traffic rules and regulations relating to the use of lights, speeding, parking, stopping the vehicle in an emergency, accidents, production of documents, right of way, controlled and uncontrolled pedestrian crossings, meaning of light signals (amber, red and green), overtaking, taking a "U" turn, silence zones, one-way traffic, driving on channelised roads other relevant matters;
- (3) aware of the meaning of the traffic signs specified in the Ninth Schedule;
- (4) not so deaf as to be unable to hear (or in the case of a person who has applied for licence to drive a light motor vehicle with or without hearing-aid), the ordinary sound signals, (This shall not apply to a person who has produced a medical certificate in Form C.);
- (5) able to distinguish with each eye (or in the case of a person who has held a licence to drive a motor vehicle for a period of not less than five years and lost sight of one eye after the said period of five years and has applied a licence to drive a light motor vehicle, other than a transport vehicle, fitted with an outside mirror on the steering wheel side, with one eye) at a distance of 25 metres in good day light (with glasses if worn) a motor car number plate containing seven letters and figures; (This shall not apply to a person who has produced a medical certificate in Form C.).

80. *Substitution of Sixth Schedule.*—For the sixth Schedule to the principal Act, the following Schedule shall be substituted, namely :—

### “THE SIXTH SCHEDULE

[See sections 24 (3) and 29 (2) ]

#### REGISTRATION MARKS

One of the groups of letters specified in the second column followed by any other letter shall be used as the registration mark for a vehicle in the State specified in the first column.

1	2
Andhra Pradesh .. ..	AP, AA
Assam .. ..	AS
Bihar .. ..	BR, BH
Gujarat .. ..	GJ, GT
Haryana .. ..	HR, HY
Jammu and Kashmir .. ..	JK

1	2
Kerala .. ..	KL
Madhya Pradesh .. ..	MP, CP
Maharashtra .. ..	MR, MH
Mysore .. ..	MY, ME
Nagaland .. ..	NL
Orissa .. ..	OR, OS
Punjab .. ..	PN, PU
Rajasthan .. ..	RJ, RS
Tamil Nadu .. ..	TN, TM
Uttar Pradesh .. ..	UP, US, UT
West Bengal .. ..	WB, WG, WM
Chandigarh .. ..	CG, CH
Delhi .. ..	DL, DH
Goa, Daman and Diu .. ..	GD
Himachal Pradesh .. ..	HL, HP
Manipur .. ..	MN
Pondicherry .. ..	PY, PD
Tripura .. ..	TR
Andaman and Nicobar Islands .. ..	AN
Laccadive, Minicoy and Amindivi Islands	LC, MA

NOTE 1.—These letters shall be followed by not more than four figures, and the letters and figures shall be shown—

1. In the case of transport vehicles. In black on a white ground.
2. In the case of temporary registrations (section 25) In red 'on a' yellow ground.
3. In the case of registration marks allotted to dealers [section 41 (2) (k)] In white on a red ground.
4. In other cases. In white on a black ground.

NOTE 2.—In respect of the Maharashtra State, the letters BM, BY may continue to be used in respect of vehicles which were registered before the 1st October, 1961.”

81. *Substitution of Eighth Schedule.*—For the Eighth Schedule to the principal Act, the following Schedule shall be substituted, namely :—

### “THE EIGHTH SCHEDULE

(See section 71)

#### LIMITS OF SPEED FOR MOTOR VEHICLES

Class of vehicle	Maximum speed per hour in Kilometres
2	3
(1) If all the wheels of the vehicle are fitted with pneumatic tyres and the vehicle is not drawing a trailer:—	
(a) if the vehicle is a light motor vehicle or a motor cycle ..	No limit.
(b) if the vehicle is a medium or heavy passenger motor vehicle ..	60
(c) if the vehicle is a medium or heavy goods motor vehicle ..	60



	1	2	3	1	2	3
p o a f	(2) If the vehicle is an articulated vehicle (all the wheels of which are fitted with pneumatic tyres) which is a heavy motor vehicle	50		11. Motor Vehicles (Madras Amend-ment) Act, 1949 (44 of 1949)	The whole.	
	(3) If the vehicle is drawing not more than one trailer (or in the case of artillery equipment, not more than two trailers) and all the wheels of that vehicle and the trailer are fitted with pneumatic tyres:—			12. Motor Vehicles (Madras Amendment) Act, 1954 (39 of 1954)	The whole except sections 1 and 2.	
	(a) if the vehicle is a light motor vehicle and the trailer being two-wheeled has a laden weight not exceeding 800 kgs.	60		13. Motor Vehicles (Madras Amendment) Act, 1957 (19 of 1957)	The whole.	
	(b) if the vehicle is a light motor vehicle and the trailer has more than two wheels or a laden weight exceeding 800 kgs...	50		14. Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Madhya Pradesh (3 of 1948)	The whole.	
	(c) if the vehicle is a medium motor vehicle	50		15. Motor Vehicles (Bombay Amendment) Act, 1947 (7 of 1947)	The whole.	
	(d) if the vehicle is a heavy motor vehicle	40		16. Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Maharashtra (3 of 1947)	The whole.	
	(e) if the vehicle is a heavy motor vehicle used by the fire brigade	50		17. Motor Vehicles (Bombay Amendment) Act, 1954 (31 of 1954)	The whole.	
	(4) Any case not covered by entry (1), (2) or (3)	30"		18. Motor Vehicles (Hyderabad Amendment) Act, 1956 as to Maharashtra (55 of 1956)	The whole.	

82. *Insertion of new Schedule.*—After the eleventh Schedule to the principal Act, the following Schedule shali be inserted, namely :—

#### THE TWELFTH SCHEDULE

(See section 135)

#### REPEAL OF CERTAIN ENACTMENTS

Serial No.	Short title	Extent of repeal
1	2	3
1.	Motor Vehicles (Andhra Pradesh) (Andhra Area) Amendment Act, 1948 (20 of 1948)	The whole except sections 1 and 12.
2.	Motor Vehicles (Andhra Pradesh) (Telangana Area) Amendment Act, 1956 (45 of 1956)	The whole.
3.	Assam State Road Transport Act, 1954 (30 of 1954)	The whole.
4.	Assam State Road Transport (Amendment) Act, 1955 (18 of 1955)	The whole.
5.	Motor Vehicles (Bihar Amendment) Act, 1949 (27 of 1950)	The whole except sections 1 and 3
6.	Motor Vehicles (Bihar Amendment) Act, 1953 (1 of 1954)	The whole.
7.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Kerala (20 of 1948)	The whole except sections 1 and 3.
8.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Kerala (44 of 1949)	The whole.
9.	Motor Vehicles (Madras Amendment) Act, 1954 as applicable to Kerala (39 of 1954)	The whole.
10.	Motor Vehicles (Madras Amendment) Act, 1948 (20 of 1948)	The whole except sections 1, 3 and 5.
11.	Motor Vehicles (Madras Amendment) Act, 1949 (44 of 1949)	The whole.
12.	Motor Vehicles (Madras Amendment) Act, 1954 (39 of 1954)	The whole except sections 1 and 2.
13.	Motor Vehicles (Madras Amendment) Act, 1957 (19 of 1957)	The whole.
14.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Madhya Pradesh (3 of 1948)	The whole.
15.	Motor Vehicles (Bombay Amendment) Act, 1947 (7 of 1947)	The whole.
16.	Central Provinces and Berar Motor Vehicles (Amendment) Act, 1947 as applicable to Maharashtra (3 of 1947)	The whole.
17.	Motor Vehicles (Bombay Amendment) Act, 1954 (31 of 1954)	The whole.
18.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as to Maharashtra (55 of 1956)	The whole.
19.	Motor Vehicles (Mysore Amendment) Act, 1953 (14 of 1953)	The whole.
20.	Motor Vehicles (Mysore Amendment) Act, 1955 (15 of 1955)	The whole.
21.	Motor Vehicles (Bombay Amendment) Act, 1947 as applicable to Mysore (7 of 1947)	The whole.
22.	Motor Vehicles (Bombay Amendment) Act, 1954 as applicable to Mysore (31 of 1954)	The whole.
23.	Motor Vehicles (Hyderabad Amendment) Act, 1956 as applicable to Mysore (45 of 1956)	The whole.
24.	Motor Vehicles (Madras Amendment) Act, 1948 as applicable to Mysore (20 of 1948)	The whole.
25.	Motor Vehicles (Madras Amendment) Act, 1949 as applicable to Mysore (45 of 1949)	The whole.
26.	Orissa Motor Vehicles (Amendment) Act, 1948 (1 of 1949)	The whole.
27.	Orissa Motor Vehicles (Regulation of State Carriage and Public Carrier's Services) Act, 1947 (36 of 1947)	The whole.
28.	Orissa Motor Vehicles (Regulation of State Carriage and Public Carrier's Services) Amendment Act, 1951 (41 of 1951)	The whole.
29.	Motor Vehicles (East Punjab Amendment) Act, 1948 (28 of 1948)	The whole except sections 1, 3, 4 and 10.
30.	Motor Vehicles (United Provinces Amendment) Act, 1948 (11 of 1948)	The whole.

1	2	3
31.	Motor Vehicles (Uttar Pradesh Amendment) Act, 1953 (28 of 1953)	The whole.
32.	Uttar Pradesh Road Transport Services (Development) Act, 1955 (9 of 1955)	The whole except sections 1 and 14.
33.	Motor Vehicles (West Bengal Amendment) Act, 1951 (19 of 1951)	The whole.
34.	Motor Vehicles (Delhi Amendment) Act, 1954 (5 of 1954)	The whole.
35.	Himachal Pradesh State Road Transport Act, 1953 (5 of 1954)	The whole.

The above Bill has been passed by the Houses of Parliament.

*Chairman.*

*Dated the December, 1969.*

I assent to this Bill.

*President.*

*Dated the December, 1969.*

